



# The Gazette of India.

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Separate paging is given to this Part in order that it may be filed as a separate compilation.

## PART IV.

Acts of the Indian Legislature assented to by the Governor General.

GOVERNMENT OF INDIA.

LEGISLATIVE DEPARTMENT.

The following Act of the Indian Legislature received the assent of the Governor General on the 5th March, 1922, and is hereby promulgated for general information :—

### ACT No. VII OF 1922.

*An Act to amend the law relating to emigration.*

WHEREAS it is expedient to amend the law relating to emigration; It is hereby enacted as follows :—

#### CHAPTER I.

##### PRELIMINARY.

1. (1) This Act may be called the Indian Short title and ex- Emigration Act, 1922. tent.

(2) It extends to the whole of British India.

(1) In this Act, unless there is anything repugnant in the subject or Definitions. context,—

(a) "dependent" means any woman or child who is related to an emigrant and any aged or incapacitated relative of an emigrant;

(b) "emigrant" means any person who emigrates or has emigrated or who has been registered as an emigrant under this Act, and includes any dependent of an emigrant, but does not include—

(c) any person emigrating to a country in which he has resided for not less than five years or the wife or child of such person, or

(ii) the wife or child of any person who has lawfully emigrated when such wife or child departs for the purpose of joining such person;

(c) "emigrate" and "emigration" mean the departure by sea out of British India of—

(i) any person who departs under an agreement to work for hire in any country beyond the limits of India, and

(ii) any person who is assisted to depart, otherwise than by a relative, if he departs for the purpose or with the intention of working for hire or engaging in agriculture in any country beyond the limits of India;

(d) "prescribe" means to prescribe by rules made under this Act;

(e) "work," with its grammatical variations, means skilled or unskilled work;

(f) "skilled work" means—

(i) working as an artisan; or

(ii) working as a clerk or shop assistant; or

(iii) working for the purpose of any exhibition or entertainment; or

(iv) service in any restaurant, tea-house, or other place of public resort; or

(v) domestic service; or

(vi) any other occupation which the Governor General in Council may, by notification in the Gazette of India, declare to be skilled work ;

(g) "unskilled work" includes engaging in agriculture.

(2) In case of any doubt or dispute arising otherwise than in the course of any legal proceedings, as to whether—

- (a) any person is an emigrant, or
- (b) any work is skilled or unskilled, or
- (c) any person has been assisted otherwise than by a relative,

within the meaning of this Act, the question shall be determined by such person and in such manner as the Local Government may prescribe, and such determination shall be final.

## CHAPTER II.

### PROTECTORS OF EMIGRANTS AND MEDICAL INSPECTORS.

3. (1) Subject to the control of the Governor General in Council, the Local Government may appoint a person to be the Protector of Emigrants for any port situate within the territories administered by it from which emigration is lawful.

(2) The Local Government may define the area to which the authority of a Protector of Emigrants so appointed shall extend.

(3) Every Protector of Emigrants shall be a public servant within the meaning of the Indian Penal Code.

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4. Every Protector of Emigrants, in addition to the special duties assigned to him by or under this Act, shall—

- (a) protect and aid with his advice all emigrants ;
- (b) cause, so far as he can, all the provisions of this Act and of the rules made thereunder to be complied with ;
- (c) inspect, at the time of arrival, to such extent and in such manner as the Local Government may prescribe, vessels bringing return emigrants to the port for which he is Protector ;
- (d) inquire into the treatment received by return emigrants both during the period of their residence in the country to which they emigrated, and also during the return voyage, and report thereon to the Local Government ;
- (e) aid and advise return emigrants so far as he reasonably can ; and
- (f) on being satisfied that any person intending to depart by sea out of British India comes within one of the classes expressly excluded from the definition of emigrant in section 2, furnish such person with a certificate to the effect that such person is not an emigrant for the purposes of this Act.

5. (1) In any specified area where there is not Power to appoint a Protector of Emigrants, persons to exercise functions of a Protector. the Local Government, subject to the control of the Governor General in Council, may appoint any person to perform all or any of the duties of a Protector of Emigrants under this Act.

(2) Every person so appointed shall be a public servant within the meaning of the Indian Penal Code.

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6. (1) The Local Government may appoint one or more Medical Inspectors of Emigrants at any port from which emigration is lawful or at any other place, and, where more than one are appointed, may apportion their respective duties.

(2) Every Medical Inspector of Emigrants shall be a public servant within the meaning of the Indian Penal Code.

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7. The Governor General in Council may, for the purpose of safeguarding the interests of emigrants in any place outside British India, appoint persons to be agents in such places, and may define their powers and duties.

8. The Local Government may, for the purpose of assisting any Protector of Emigrants appointed by it or any person appointed by it under section 5, constitute an Advisory Committee in such manner as it may think fit, and may prescribe the procedure to be followed and the functions to be performed by such committee.

## CHAPTER III.

### EMIGRATION FOR THE PURPOSE OF UNSKILLED WORK.

9. (1) Emigration, for the purpose of unskilled work, shall not be lawful except from the ports of Calcutta, Madras, Bombay, Karachi, Negapatam, Tuticorin and Dhanushkodi, and from such other ports as the Governor General in Council may, by notification in the Gazette of India, declare to be ports from which such emigration is lawful.

(2) The Local Government may, by notification in the local official Gazette, fix for the purposes of this Act the limits of any port from which such emigration is lawful.

10. (1) Emigration, for the purpose of unskilled work, shall not be lawful except to such countries and on such terms and conditions as the Governor General in Council, by notification in the Gazette of India, may specify in this behalf.

(2) No notification shall be made under subsection (1) unless it has been laid in draft before both Chambers of the Indian Legislature and has been approved by a resolution of each Chamber, either without modification or addition, or with modifications and additions to which both Chambers agree, but, upon such approval being given, the notification may be issued in the form in which it has been so approved.

**11. (1)** Where the Governor General in Council has reason to believe that in any country to which emigration for the purpose of unskilled work is lawful plague or any other epidemic disease dangerous to human life has broken out, and that emigrants if allowed to emigrate to that country would be exposed to serious risk to life on arrival there, he may, by notification in the Gazette of India, declare that emigration to that country for the purpose of unskilled work shall cease to be lawful.

**(2)** Where a Local Government has reason to believe that such a state of affairs as is described in sub-section (1) exists in any country to which emigration for the purpose of unskilled work is lawful, it may, by notification in the local official Gazette, declare that emigration to that country for the purpose of unskilled work from any port in the territories administered by it shall cease to be lawful pending a reference to the Governor General in Council.

**(3)** The Local Government publishing a notification under sub-section (2) shall forthwith report such notification with the reasons for it to the Governor General in Council, who shall thereupon publish a notification in the Gazette of India confirming or cancelling the notification published by the Local Government.

**12.** Where the Governor General in Council is satisfied that the ground on which a notification under sub-section (1) of section 11, or a notification under sub-section (3) of section 11 confirming a notification of a Local Government has been made with respect to any country, has ceased to exist, he may, by notification in the Gazette of India, declare that emigration to that country for the purpose of unskilled work shall again be lawful from a date to be specified in the notification.

**13. (1)** The Governor General in Council may, by notification in the Gazette of India, prohibit, from a specified date, and for reasons, to be specified in the notification, all persons or any specified class of persons from emigrating to any specified country from the territories under the administration of any Local Government or any specified part thereof, for the purpose of unskilled work.

**(2)** Every notification issued under this section shall be laid before both Chambers of the Indian Legislature as soon as may be after it is made.

**14.** A notification under section 10, section 11, section 12 or section 13 shall not affect any act done, offence committed, or legal proceedings commenced before the date on which such notification takes effect.

#### CHAPTER IV.

##### EMIGRATION FOR THE PURPOSE OF SKILLED WORK.

**15.** Emigration, for the purpose of skilled work, shall not be lawful except from a port from which emigration for the purpose of unskilled work is lawful and from such

other ports as the Governor General in Council may, by notification in the Gazette of India, specify in this behalf.

**16. (1)** Whoever desires to engage, or to assist, any person to emigrate for the purpose of skilled work shall apply for the permission of the Local Government having jurisdiction at the port from which such person is to depart, and shall state in his application—

- the number of persons whom he proposes so to engage or assist ;
- the place beyond the limits of India to which each such person and his dependents are to proceed ;
- the accommodation to be provided for each such person and his dependents until their departure out of India and during the voyage.

**(2)** Whoever desires to engage any person for the purpose described in sub-section (1) shall, in addition to the information which he is required by that sub-section to supply in his application, further state therein—

- the provision to be made for the health and well-being of such person and his dependents during the period of the proposed engagement and for their repatriation at the end of such period ;
- the terms of the agreement under which such person is to be engaged ;
- the security in British India which he proposes to furnish for the due observance of such agreement and for the proper treatment of the person to be engaged and his dependents.

**17.** On receiving an application under section 16, the Local Government may, after such inquiry as it may deem necessary, grant the permission applied for on such terms and conditions (if any) and on payment of such fees (if any) as it thinks fit, or withhold such permission, and the decision of the Local Government shall be final.

**18. (1)** Before any person departs from British India in accordance with permission granted under section 17, the person by whom he has been engaged or assisted shall appear in person or by his duly authorised agent before the Protector of Emigrants at the port of embarkation with such first-mentioned person and with any persons intending to accompany him as his dependents.

**(2)** If it appears to the Protector of Emigrants—

- that permission to engage or assist such person has been duly obtained,
- in the case of an engagement, that the terms of the agreement under which such person has been engaged are in accordance with the terms of the permission granted and are understood by him, and

(c) that the conditions on which the permission was granted have been complied with,

he shall register in a book to be kept for the purpose such particulars concerning the person engaged or assisted and his dependents (if any) and concerning the person engaging or assisting him, and in such form, as the Local Government may prescribe.

**19.** Where such security as is referred to in sub-section (2) of section 16 has been furnished, the Local Government may, at any time after making such inquiry as it may deem necessary, pass orders in regard to the forfeiture of the security in whole or in part and the application of the same or any part thereof, and, on the expiry of the period to which the agreement relates and on being satisfied that no ground exists for forfeiting the security in whole or in part, order the return of the security or of any part thereof to the person by whom it was furnished or to his representative.

**20.** The Local Government may, by notification in the local official Gazette, authorise a Protector of Emigrants to receive and dispose of applications made under this Chapter:

Provided that an appeal shall lie to the Local Government from every order passed by a Protector of Emigrants in exercise of the authority so conferred.

**21. (1)** Where the Governor General in Council has reason to believe that sufficient grounds exist for prohibiting emigration of skilled workers to any country, he may, by notification in the Gazette of India, declare that such emigration to that country shall cease to be lawful from a date specified in the notification; and from that date such emigration to that country shall accordingly cease to be lawful.

(2) Every notification issued under this section shall be laid before both Chambers of the Indian Legislature as soon as may be after it is made.

**22.** Nothing in this Chapter shall apply in any case in which a person engages another to accompany him out of India as his personal domestic servant.

## CHAPTER V.

### RULES.

**23.** Subject to the control of the Governor General in Council, the Local Government may, by notification in the local official Gazette, make rules consistent with this Act to prescribe the person by whom any doubt or dispute referred to in sub-section (2) of section 2 shall be determined and the procedure to be followed and the proof to be required in such cases, and to provide for any other matter which the Local Government is by this Act empowered to prescribe.

**24. (1)** The Governor General in Council may, by notification in the Gazette of India, and after to make rules. previous publication, make rules for the purpose of carrying into effect the provisions of this Act.

(2) In particular and without prejudice to the generality of the foregoing power, such rules may provide for—

- (a) the powers and duties of the several officers appointed by the Governor General in Council under this Act;
- (b) the licensing, supervision and control of all persons employed in British India in connection with the inducement of persons to emigrate and with the conveyance and accommodation of persons so induced;
- (c) the establishment, supervision and regulation of any places of accommodation provided for emigrants and for their medical care while resident there;
- (d) the forms to be maintained and the returns to be submitted by persons licensed in accordance with rules framed under clause (b);
- (e) the information to be furnished by persons licensed in accordance with rules framed under clause (b) to emigrants and the language in which such information is to be furnished;
- (f) the production and examination of emigrants before District Magistrates or such other authorities as may be appointed in this behalf;
- (g) the age below which persons of either sex may not emigrate except as dependents;
- (h) the accommodation, the provisions, fuel and other necessities, the medical stores and staff, the life-saving and sanitary arrangements, and the records to be maintained on any ship specially chartered for the transport of emigrants;
- (i) the reception and the despatch to their homes of return emigrants;
- (j) the fees, if any, payable by Emigration Agents to Protectors of Emigrants for each emigrant departing from India; and
- (k) generally, the security, well-being and protection of emigrants both up to the date of their actual departure from India and on their return to India.

## CHAPTER VI.

### OFFENCES.

**25. (1)** Whoever, except in conformity with the provisions of this Act or of the rules made under this Act, emigrates or attempts to emigrate shall be punishable with fine which may extend to fifty rupees.

(2) Whoever, except in conformity with the provisions of this Act or of the rules made under this Act,—

- (a) makes, or attempts to make, any agreement with any person purporting to bind that person, or any other person, to emigrate, or

(b) induces, or attempts to induce, any person to emigrate or to attempt to emigrate or to leave any place for the purpose of emigrating, or

(c) causes any person engaged or assisted by him, after grant of the permission referred to in section 17, to depart by sea out of British India without registration of the particulars required by sub-section (2) of section 18,

shall be punishable with fine, which may extend to five hundred rupees.

(5) If any person commits an offence under this section, any police-officer may arrest him without warrant.

**26.** Whoever, by means of intoxication, coercion or fraud, causes or induces, or attempts to cause or induce, any person to emigrate, or enter into any agreement to emigrate, or leave any place with a view to emigrating, shall be punishable with imprisonment for a term which may extend to one year, or with fine, or with both.

**27.** Whoever falsely represents that any emigrants are required by the Government or are to be engaged on behalf of the Government shall be punishable with imprisonment for a term which may extend to six months, or with fine, which may extend to five hundred rupees, or with both.

**28.** No prosecution shall be instituted for any offence under this Chapter except with the sanction of a Protector of Emigrants or of a person appointed under section 5 and empowered in this behalf or, where there is no Protector or person so appointed and empowered, of the District Magistrate:

Provided that no sanction shall be required when an offence has been committed in respect of an emigrant or an intended emigrant and the complaint is filed by such emigrant, or intended emigrant or, on behalf of such emigrant or intended emigrant, by the father, mother, husband, wife or guardian of such emigrant or intended emigrant or, if such emigrant or intended emigrant is a member of a joint Hindu family, by the manager of that family.

**29.** All the powers for the time being conferred by law on officers of Power for Customs-officer to search and detain for purposes of the Act. sea-customs with regard to the searching and detention of vessels or otherwise for the prevention of smuggling on board thereof, may be exercised by those officers for the prevention of offences against this Act.

## CHAPTER VII.

### SUPPLEMENTAL.

**30.** (1) The departure by land out of British India of any person under, or with a view to entering into, an agreement to work for hire in some country beyond the sea, otherwise than by a relative, so to depart for the purpose or with the intention of working for hire or engaging in agriculture, in any country beyond the sea, is prohibited.

(2) Whoever departs, or attempts to depart, by land out of British India in contravention of this section, shall be deemed to have committed an offence under sub-section (1) of section 25.

(3) Whoever induces, or attempts to induce, any person to depart by land out of British India in contravention of this section shall be deemed to have committed an offence under sub-section (2) of section 25.

## CHAPTER VIII.

### SAVINGS AND REPEAL.

**31.** Nothing in this Act shall be deemed to apply to the departure out of British India of—

(i) any person who is neither of Indian parentage nor a subject of a State in India, or

(ii) any person enrolled under the Indian Army Act, 1911. VIII of 1911.

**32.** Notwithstanding anything contained in this Act, the provisions of this Act shall not apply for a period of twelve months from the date of the commencement of this Act to persons emigrating to Ceylon, the Straits Settlements, or any protected Native State adjoining the Straits Settlements.

**33.** The Indian Emigration Act, 1908, is hereby repealed. XVII of 1908.

H. MONCRIEFF SMITH,  
Secretary to the Government of India.



## GOVERNMENT OF INDIA.

## LEGISLATIVE DEPARTMENT.

The following Act of the Indian Legislature received the assent of the Governor General on the 5th March, 1922, and is hereby promulgated for general information :—

## ACT NO. VIII OF 1922.

*An Act to establish and incorporate a unitary teaching and residential University at Delhi.*

WHEREAS it is expedient to establish and incorporate a unitary teaching and residential University at Delhi; It is hereby enacted as follows :—

1. (1) This Act may be called the Delhi Short title and com. University Act, 1922. commencement.

(2) It shall come into force on such date as the Governor General in Council may, by notification in the Gazette of India, direct.

2. In this Act and in the Statutes, unless Definitions. there is anything repugnant in the subject or context,—

(a) "College" means an institution maintained or recognized by the University in accordance with the provisions of this Act, in which instruction is provided under conditions prescribed in the Statutes, and in which provision is made for residence of students of the University;

(b) "Hall" means a unit of residence for students of the University maintained or recognized by the University in accordance with the provisions of this Act;

(c) "Patron of the University" means a person who has made a donation of not less than one lakh of rupees to the funds of the University, and has been declared by the Chancellor to be a Patron of the University;

(d) "Principal" means the head of a College;

(e) "registered graduate" means a graduate registered under the provisions of this Act;

(f) "Statutes", "Ordinances" and "Regulations" mean, respectively, the Statutes, Ordinances and Regulations of the University made under this Act;

(g) "teachers" includes Professors, Readers, Lecturers and other persons imparting instruction in the University or in any College or Hall;

(h) "teachers of the University" means persons appointed or recognized by the University under the provisions of this Act for the purpose of imparting instruction in the University or any College;

(i) "University" means the University of Delhi; and

(j) "Warden" means the head of a Hall.

*The University.*

3. (1) The first Chancellor and the first Vice-Chancellor of the University and the first members of the Court, the Executive Council and the Academic Council and all persons who may hereafter become such officers or members, so long as they continue to hold such office or membership, are hereby constituted a body corporate by the name of "the University of Delhi."

(2) The University shall have perpetual succession and a Common Seal, and shall sue and be sued by the said name.

4. The University shall have the following

Powers of the University. powers, namely :—

(1) to provide for instruction in such branches of learning as the University may think fit, and to make provision for research and for the advancement and dissemination of knowledge,

(2) to hold examinations and to grant to, and confer degrees and other academic distinctions on, persons who—

(a) have pursued a course of study in the University, or

(b) are teachers in educational institutions, under conditions laid down in the Ordinances and Regulations, and have passed the examinations of the University under like conditions,

(3) to confer honorary degrees or other distinctions on approved persons in the manner laid down in the Statutes,

(4) to grant such diplomas to, and to provide such lectures and instruction for, persons not being members of the University, as the University may determine,

(5) to co-operate with other Universities and authorities in such manner and for such purposes as the University may determine,

(6) to institute Professorships, Readerships, Lectureships and any other teaching posts required by the University,

(7) to appoint or recognize persons as Professors, Readers or Lecturers, or otherwise as teachers of the University,

(8) to institute and award Fellowships, Scholarships, Exhibitions and Prizes in accordance with the Statutes and the Regulations,

(9) to maintain Colleges and Halls, to recognize Colleges and Halls not maintained by the University, and to withdraw such recognition,

(10) to demand and receive payment of such fees and other charges as may be authorised by the Ordinances,

(11) to supervise and control the residence and discipline of students of the University, and to make arrangements for promoting their health and general welfare,

(12) to make grants from the funds of the University for the maintenance of the University corps of the Indian Territorial Force, and

(13) to do all such other acts and things, whether incidental to the powers aforesaid or not, as may be requisite in order to further the objects of the University as a teaching and examining body, and to cultivate and promote arts, science and other branches of learning.

5. (1) Save as otherwise provided in this Act, the powers of the University conferred by or under this Act shall not extend beyond a radius of ten miles from the Convocation Hall of the University, and, notwithstanding anything in any other law for the time being in force, no educational institution beyond that limit shall be associated with or admitted to any privileges of the University:

Provided that nothing in this sub-section shall apply to any agricultural or other technical institution established or maintained in connection with the University with the sanction of the Governor General in Council.

(2) Notwithstanding anything in any other law for the time being in force, no educational institution within the afore-mentioned limit shall be associated in any way with or be admitted to any privileges of any other University incorporated by law in British India, and any such privileges granted by any such other University to any educational institution within that limit prior to the commencement of this Act shall be deemed to be withdrawn on the commencement of this Act:

Provided that the Governor General in Council may, by order in writing, direct that the provisions of this sub-section shall not apply in the case of any institution specified in the order.

6. The University shall be open to all persons of either sex and of what-  
all classes, castes and ever race, creed or class,  
creeds, and it shall not be lawful for the University to adopt or impose on any person any test whatsoever of religious belief or profession in order to entitle him to be admitted thereto as a teacher or student, or to hold any office therein, or

to graduate thereat, or to enjoy or exercise any privilege thereof, except where such test is specially prescribed by the Statutes, or, in respect of any particular benefaction accepted by the University, where such test is made a condition thereof by any testamentary or other instrument creating such benefaction:

Provided that nothing in this section shall be deemed to prevent religious instruction being given in the manner prescribed by the Ordinances to those not unwilling to receive it by persons (whether teachers of the University or not) approved for that purpose by the Executive Council.

7. (1) All recognized teaching in connection with the University courses shall be conducted under the control of the Academic Council by teachers of the University, and shall include lecturing, laboratory work and other teaching conducted in accordance with any syllabus prescribed by the Regulations.

(2) Every teacher of the University shall be attached to a College, and at least one such teacher shall be attached to each College.

(3) The authorities responsible for organizing such teaching shall be prescribed by the Statutes.

(4) The courses and curricula shall be prescribed by the Ordinances and, subject thereto, by the Regulations.

(5) Save as otherwise expressly provided by this Act, it shall not be lawful for the University or any College to maintain classes, after the expiration of five years from the commencement of this Act, for the purpose of preparing students for admission to the University save with the sanction of the Governor General in Council and during such period as he may direct, or at any time to frame courses, conduct examinations or recognise institutions for the purpose of preparing or testing students for admission to the University save with such sanction and during such period.

#### *Officers of the University.*

8. The following shall be the officers of the University:—  
Officers of the University.

- (I) The Chancellor,
- (II) the Pro-Chancellor,
- (III) the Vice-Chancellor,
- (IV) the Rector,
- (V) the Treasurer,
- (VI) the Registrar,
- (VII) the Deans of the Faculties, and
- (VIII) such other persons in the service of the University as may be declared by the Statutes to be officers of the University.

9. (1) The Chancellor shall be the Governor General. He shall by virtue of his office be the head of the University and the President of the Court, and shall, when present, preside at meetings of the Court and at any Convocation of the University.



(2) The Chancellor shall have the right to cause an inspection to be made, by such person or persons as he may direct, of the University, its buildings, laboratories, equipment, and of any institutions associated with the University, and also of the examinations, teaching and other work conducted or done by the University, and to cause an inquiry to be made in like manner in respect of any matter connected with the University. The Chancellor shall in every case give notice to the University of his intention to cause an inspection or inquiry to be made, and the University shall be entitled to be represented thereat.

(3) The Chancellor may address the Vice-Chancellor with reference to the results of such inspection or inquiry, and the Vice-Chancellor shall communicate to the Executive Council the views of the Chancellor and shall, after ascertaining, if he so thinks fit, the opinion of the Executive Council thereon, advise the University upon the action to be taken thereon.

(4) The Executive Council shall report to the Vice-Chancellor for communication to the Chancellor such action, if any, as it is proposed to take or has been taken upon the results of such inspection or inquiry.

(5) The Chancellor shall have such other powers as may be conferred on him by this Act or the Statutes.

(6) Every proposal for the conferment of an honorary degree shall be subject to the confirmation of the Chancellor.

**10.** The Pro-Chancellor shall be appointed by the Chancellor and shall hold office for three years. He shall when present, in the absence of the Chancellor, preside at meetings of the Court and at any Convocation of the University.

**11.** (1) The Vice-Chancellor shall be appointed by the Chancellor after consideration of the recommendations of the Executive Council, and shall hold office for such term and subject to such conditions as may be prescribed by the Statutes.

(2) Where any temporary vacancy in the office of the Vice-Chancellor occurs by reason of leave, illness or other cause, the Executive Council shall forthwith report the same to the Chancellor, who shall make such arrangements for carrying on the office of the Vice-Chancellor as he may think fit.

**12.** (1) The Vice-Chancellor shall be the principal executive and academic officer of the University, and shall, in the absence of the Chancellor and the Pro-Chancellor, preside at meetings of the Court and at any Convocation of the University. He shall be an *ex-officio* member and Chairman of the Executive Council and of the Academic Council, and shall be entitled to be present and to speak at any meeting of any authority or other body of the University, but shall not be entitled to vote thereat unless he is a member of the authority or body concerned.

(2) It shall be the duty of the Vice-Chancellor to see that this Act, the Statutes and the Ordinances are faithfully observed, and he shall have all powers necessary for this purpose.

(3) The Vice-Chancellor shall have power to convene meetings of the Court, the Executive Council and the Academic Council.

(4) (a) In any emergency which, in the opinion of the Vice-Chancellor, requires that immediate action should be taken, the Vice-Chancellor shall take such action as he deems necessary, and shall, at the earliest opportunity thereafter, report his action to the officer, authority or other body who or which in the ordinary course would have dealt with the matter.

(b) When action taken by the Vice-Chancellor under clause (a) affects any person in the service of the University, such person shall be entitled to prefer an appeal to the Executive Council through the said officer, authority or other body within fifteen days from the date on which such action is communicated to him.

(5) The Vice-Chancellor shall give effect to any order of the Executive Council regarding the appointment, dismissal or suspension of an officer or teacher of the University, or regarding the recognition or withdrawal of the recognition of any such teacher, and shall exercise general control in the University. He shall be responsible for the discipline of the University in accordance with this Act, the Statutes and the Ordinances.

(6) The Vice-Chancellor shall exercise such other powers as may be prescribed by the Statutes and the Ordinances.

**13.** The Chancellor may appoint a Rector who shall hold office for such term and subject to such conditions, and shall exercise such powers, and perform such duties, of the Vice-Chancellor, as the Chancellor, after consultation with the Vice-Chancellor, may direct.

**14.** The Treasurer shall be appointed by the Chancellor after consideration of the recommendations of the Executive Council, upon such conditions and for such period, and shall receive such remuneration (if any), as the Executive Council shall deem fit. He shall be an *ex-officio* member of the Executive Council and shall—

- (1) exercise general supervision over the funds of the University, and advise in regard to its financial policy ;
- (2) subject to the control of the Executive Council, manage the property and investments of the University, and be responsible for the presentation of the annual estimates and statements of accounts ;
- (3) subject to the powers of the Executive Council, be responsible for seeing that all monies are expended on the purpose for which they are granted or allotted ;
- (4) sign all contracts made on behalf of the University ; and
- (5) exercise such other powers as may be prescribed by the Statutes and the Ordinances :

Provided that the Chancellor may, on the recommendation of the Executive Council, in the case of any vacancy in the office of the Treasurer, whether permanent or otherwise, direct that the Registrar shall act as the Treasurer and perform all the duties and exercise all the powers of the Treasurer, and when any such direction has been made references to the Treasurer in this Act and the Statutes, Ordinances and Regulations shall be deemed to be references to the Registrar.

**15.** The Registrar shall act as Secretary of the Court, the Executive Council and the Academic Council. He shall maintain a register of registered graduates in accordance with the Statutes, and shall exercise such other powers as may be prescribed by the Statutes and the Ordinances.

**16.** The powers of officers of the University other than the Chancellor, the Pro-Chancellor, the Vice-Chancellor, the Rector, the Treasurer and the Registrar shall be prescribed by the Statutes and the Ordinances.

*Authorities of the University.*

**17.** The following shall be the authorities of the University :—

- (I) The Court,
- (II) the Executive Council,
- (III) the Academic Council,
- (IV) the Faculties, and,
- (V) such other authorities as may be declared by the Statutes to be authorities of the University.

**18.** (1) The Court shall consist of the following persons, namely :—

*Class I.—Ex-officio members.*

- (i) The Chancellor,
- (ii) the Pro-Chancellor,
- (iii) the Vice-Chancellor,
- (iv) the Rector,
- (v) the Treasurer,
- (vi) the Registrar,
- (vii) the Principals,
- (viii) the Professors and Readers of the University, and
- (ix) such other *ex-officio* members as may be prescribed by the Statutes.

*Class II.—Life members.*

- (x) The Patrons of the University and persons (if any) appointed by the Chancellor on the recommendation of the Executive Council to be life members on the ground that they have rendered great services to education or have made substantial donations to the University.

*Class III.—Other members.*

- (xi) Graduates of the University elected by the registered graduates from among their own body,
- (xii) persons elected from among their own body by the teachers who are not Professors or Readers of the University,
- (xiii) persons elected by associations or other bodies approved in this behalf by the Chancellor on the recommendation of the Court,
- (xiv) persons elected by the elected members of the Council of State and the Legislative Assembly from among their own numbers,
- (xv) persons appointed by the Chancellor, and
- (xvi) a representative of the Governing Body of each College, elected or nominated by that Body.

(2) The number of members to be elected or appointed under clauses (xi), (xii), (xiii), (xiv) and (xv), and the tenure of office of members to be elected or appointed under each clause of Class III shall be prescribed by the Statutes, and the mode of election of members to be elected under clauses (xi) and (xii) shall be prescribed by the Ordinances.

**19.** (1) The Court shall, on a date to be fixed by the Vice-Chancellor, meet once a year at a meeting to be called the annual meeting of the Court.

(2) The Vice-Chancellor may, whenever he thinks fit, and shall upon a requisition in writing signed by not less than thirty members of the Court, convene a special meeting of the Court.

**20.** Subject to the provisions of this Act, the Powers and duties of the Court shall exercise the following powers and perform the following duties, namely :—

- (a) of making Statutes, and of amending or repealing the same,
- (b) of considering and cancelling Ordinances, and
- (c) of considering and passing resolutions on the annual report, the annual accounts and the financial estimates,

and shall exercise such other powers and perform such other duties as may be conferred or imposed upon it by this Act or the Statutes.

**21.** The Executive Council shall be the executive body of the University, and its constitution and the terms of office of its members, other than *ex-officio* members, shall be prescribed by the Statutes.

**22.** The Executive Council—

Powers and duties of the Executive Council.

- (a) shall hold, control and administer the property and funds of the University, and for these purposes shall appoint a Finance Committee to advise it on matters of finance. The Treasurer shall be the Chairman of the Committee, and the remaining members shall be appointed from among the members of the Executive Council, provided that at least one member of the Committee shall be a member elected to the Executive Council by the Court ;
- (b) shall determine the form, provide for the custody and regulate the use of the Common Seal of the University ;
- (c) shall lay before the Governor General in Council annually a full statement of the financial requirements of the University and the Colleges ;
- (d) shall administer any funds placed at the disposal of the University for specific purposes ;
- (e) subject to the provisions of this Act and the Statutes, shall appoint the officers (other than the Chancellor, the Pro-Chancellor, the Vice-Chancellor, the Rector and the Treasurer), teachers, clerical staff and servants of the Uni-

versity, and shall define their duties and the conditions of their service, and shall provide for the filling of temporary vacancies in their posts ;

(f) shall have power to accept on behalf of the University transfers of any moveable or immoveable property ;

(g) shall arrange for the holding of, and publish the results of, the University examinations ;

(h) shall, subject to the powers conferred by this Act on the Vice-Chancellor, regulate and determine all matters concerning the University in accordance with this Act, the Statutes and the Ordinances :

provided that no action shall be taken by the Executive Council in respect of the appointment or emoluments of examiners, or the number, qualifications or emoluments of teachers otherwise than on a recommendation of the Academic Council ; and

(i) shall exercise all other powers of the University not otherwise provided for by this Act or the Statutes.

**23.** The Academic Council shall be the academic body of the University, and shall, subject to the provisions of this Act, the Statutes and the Ordinances, have the control and general regulation, and be responsible for the maintenance, of standards of instruction, education and examination within the University, and shall exercise such other powers and perform such other duties as may be conferred or imposed upon it by the Statutes. It shall have the right to advise the Executive Council on all academic matters. The constitution of the Academic Council and the term of office of its members, other than *ex-officio* members, shall be prescribed by the Statutes.

**24.** (1) Provision shall be made as soon as possible after the commencement of this Act for the inclusion in the University of the Faculties of Arts, Science, Medicine, Commerce, Technology and Indian Fine Arts (including Music), and such other Faculties shall be included in the University (whether by the sub-division or combination of an existing Faculty or Faculties, or by the creation of a new Faculty or otherwise) as may be prescribed by the Statutes. Each Faculty shall, subject to the control of the Academic Council, have charge of the teaching and the courses of study and the research work in such subjects as may be assigned to such Faculty by the Ordinances.

(2) The constitution and powers of the Faculties shall be prescribed by the Statutes.

(3) There shall be a Dean of each Faculty, who shall be responsible for the due observance of the Statutes, Ordinances and Regulations relating to the Faculty.

(4) Each Faculty shall comprise such Departments of teaching as may be prescribed by the Ordinances. The head of every such Department shall be the Professor of the Department or, if there is no Professor, the Reader. If there is more than one Professor or more than one Reader of a Department, the Vice-Chancellor shall appoint to be head of the Department such one of the

Professors or, if there is no Professor, such one of the Readers as he thinks fit. The head of the Department shall be responsible to the Dean for the organization of the teaching in that Department.

(5) The Dean of a Faculty shall be elected by the Faculty from among the heads of Departments of the Faculty, and shall hold office as Dean for such term as may be prescribed by the Statutes.

**25.** The constitution, powers and duties of such other authorities as may be declared by the Statutes to be authorities of the University shall be provided for in the manner prescribed by the Statutes.

#### *University Boards.*

**26.** The University shall include a Residence, Health and Discipline Board and such other Boards as may be prescribed by the Statutes.

**27.** The constitution, powers and duties of the Constitution, etc., of Boards to be prescribed by Ordinances. Residence, Health and Discipline Board and of all other Boards of the University shall be prescribed by the Ordinances.

#### *Statutes, Ordinances and Regulations.*

**28.** Subject to the provisions of this Act, the Statutes may provide for all or any of the following matters, namely :—

- (a) the conferment of honorary degrees ;
- (b) the institution of Fellowships, Scholarships, Exhibitions and Prizes ;
- (c) the term of office and conditions of service of the Vice-Chancellor ;
- (d) the designations and powers of the officers of the University ;
- (e) the constitution, powers and duties of the authorities of the University ;
- (f) the institution of Colleges and Halls and their maintenance ;
- (g) the recognition and management of Colleges and Halls not maintained by the University, and the withdrawal of such recognition ;
- (h) the mode of appointment and recognition of teachers of the University ;
- (i) the constitution of pension, insurance and provident funds for the benefit of the officers, teachers, clerical staff and servants of the University ;
- (j) the maintenance of a register of registered graduates ; and
- (k) all matters which by this Act are to be or may be prescribed by the Statutes.

**29.** (1) The first Statutes shall be those set out in the Schedule.

(2) The Statutes may be amended, repealed or added to by Statutes made by the Court in the manner hereinafter appearing

(3) The Executive Council may propose to the Court the draft of any Statute to be passed by the Court. Such draft shall be considered by the Court at its next meeting. The Court may pass the Statute, or a part of it, in the form in which it has been proposed, or may reject

the Statute or part of it, or may return the Statute to the Executive Council for reconsideration, either in whole or in part, together with any amendments which the Court may suggest.

(4) Where any Statute or part of a Statute has been returned to the Executive Council for reconsideration and there is disagreement between the Court and the Executive Council in relation thereto, the matter shall be referred for decision to the Governor General in Council, whose decision shall be final.

(5) Where any Statute has been passed or a draft of a Statute or part thereof has been rejected by the Court, it shall be submitted to the Governor General in Council, who may refer the Statute or draft back to the Court for further consideration or, in the case of a Statute passed by the Court, assent thereto or withhold his assent. A Statute passed by the Court shall have no validity until it has been assented to by the Governor General in Council.

(6) The Executive Council shall not propose the draft of any Statute affecting the status, powers or constitution of any authority of the University until such authority has been given an opportunity of expressing an opinion upon the proposal. Any opinion so expressed shall be in writing and shall be considered by the Court, and shall be submitted to the Governor General in Council.

(7) Any member of the Court may propose to the Court the draft of any Statute and the Court may refer such draft for consideration to the Executive Council, which may either reject the proposal or submit the draft to the Court in such form as the Executive Council may approve, and the provisions of this section shall apply in the case of any draft so submitted as they apply in the case of a draft proposed to the Court by the Executive Council.

**30.** Subject to the provisions of this Act and the Statutes, the Ordinances may provide for all or any of the following matters, namely :—

- (a) the admission of students to the University and their enrolment as such ;
- (b) the courses of study to be laid down for all degrees and diplomas of the University ;
- (c) the conditions under which students shall be admitted to the degree or diploma courses and to the examinations of the University and shall be eligible for degrees and diplomas ;
- (d) the conditions of residence of the students of the University ;
- (e) the emoluments and conditions of service of teachers of the University ;
- (f) the fees to be charged for courses of study in the University and for admission to the examinations, degrees, and diplomas of the University ;
- (g) the giving of religious instruction ;
- (h) the formation of Departments of teaching in the Faculties ;
- (i) the constitution, powers and duties of the Boards of the University ;

(j) the conduct of examinations ; and

(k) all matters which by this Act or the Statutes are to be or may be provided for by the Ordinances.

**31.** (1) Save as otherwise provided in this section, Ordinances shall be made by the Executive Council :

Provided that—

(i) no Ordinance shall be made affecting the conditions of residence of students, except after consultation with the Residence, Health and Discipline Board, and

(ii) no Ordinance shall be made—

(a) affecting the admission or enrolment of students, or prescribing examinations to be recognized as equivalent to the University examinations or prescribing the further qualifications mentioned in sub-section (2) of section 26 for admission to the degree courses of the University, or

(b) affecting the conditions, mode of appointment or duties of examiners or the conduct or standard of examinations or any course of study,

unless a draft of such Ordinance has been proposed by the Academic Council.

(2) The Executive Council shall not have power to amend any draft proposed by the Academic Council under the provisions of sub-section (1), but may reject it or return it to the Academic Council for reconsideration, either in whole or in part, together with any amendments which the Executive Council may suggest.

(3) All Ordinances made by the Executive Council shall be submitted, as soon as may be, to the Governor General in Council and the Court, and shall be considered by the Court at its next meeting. The Court shall have power, by a resolution passed by a majority of not less than two-thirds of the members voting, to cancel any Ordinance made by the Executive Council, and such Ordinance shall, from the date of such resolution, be void.

(4) The Governor General in Council may, at any time after any Ordinance has been considered by the Court, signify to the Executive Council his disallowance of such Ordinance, and, from the date of receipt by the Executive Council of intimation of such disallowance, such Ordinance shall become void.

(5) The Governor General in Council may direct that the operation of any Ordinance shall be suspended until he has had an opportunity of exercising his power of disallowance. An order of suspension under this sub-section shall cease to have effect on the expiration of one month from the date of such order, or on the expiration of fifteen days from the date of consideration of the Ordinance by the Court, whichever period expires later.

(6) Where the Executive Council has rejected the draft of an Ordinance proposed by the Academic Council, the Academic Council may appeal to the Governor General in Council who may, if he approves the draft, make the Ordinance. An

Ordinance made under this sub-section shall cease to have effect on the expiration of six months from the making thereof.

**32.** (1) The authorities and the Boards of the University may make Regulations. Regulations consistent with this Act, the Statutes and the Ordinances—

- (a) laying down the procedure to be observed at their meetings and the number of members required to form a quorum ;
- (b) providing for all matters which by this Act, the Statutes or the Ordinances are to be prescribed by Regulations ; and
- (c) providing for all other matters solely concerning such authorities and Boards and not provided for by this Act, the Statutes or the Ordinances.

(2) Every authority of the University shall make Regulations providing for the giving of notice to the members of such authority of the dates of meetings and of the business to be considered at meetings, and for the keeping of a record of the proceedings of meetings.

(3) The Executive Council may direct the amendment, in such manner as it may specify, of any Regulation made under this section or the annulment of any Regulation made under sub-section (1) :

Provided that any authority or Board of the University which is dissatisfied with any such direction may appeal to the Governor General in Council, whose decision in the matter shall be final.

#### *Residence.*

**33.** Every student of the University shall reside in a College or a Hall, or under such conditions as may be prescribed by the Statutes and the Ordinances.

**34.** (1) The Colleges shall be such as may be named in the Statutes.

(2) The conditions of residence in the Colleges shall be prescribed by the Ordinances, and every College shall be subject to inspection by any member of the Residence, Health and Discipline Board authorized in this behalf by the Board and by any officer of the University authorized in this behalf by the Executive Council.

**35.** (1) The Halls shall be such as may be maintained by the University or approved and recognised by the Executive Council on such general or special conditions as may be prescribed by the Ordinances.

(2) The Wardens and superintending staff of the Halls shall be appointed in the manner prescribed by the Statutes.

(3) The conditions of residence in the Halls shall be prescribed by the Ordinances, and every Hall shall be subject to inspection by any member of the Residence, Health and Discipline Board authorized in this behalf by the Board and by any officer of the University or other person authorized in this behalf by the Executive Council.

(4) The Executive Council shall have power to suspend or withdraw the recognition of any Hall which is not conducted in accordance with the conditions prescribed by the Ordinances.

#### *Admission and Examinations.*

**36.** (1) Admission of students to the University shall be made by an admission committee (including at least one Principal) appointed for that purpose by the Academic Council.

(2) Students shall not be eligible for admission to a course of study for a degree unless they have passed the Intermediate Examination of an Indian University incorporated by any law for the time being in force, or an examination recognized in accordance with the provisions of this section as equivalent thereto, and possess such further qualifications as may be prescribed by the Ordinances. Any such qualification may be tested by examination notwithstanding anything contained in sub-section (5) of section 7 :

Provided that, during a period of five years from the commencement of this Act and such further period as the Governor General in Council may direct, any student who has passed a Matriculation Examination of any such University, or any examination recognised in accordance with the provisions of this section as equivalent thereto, may be deemed eligible for admission to the University.

(3) The conditions under which students may be admitted to the diploma courses of the University shall be prescribed by the Ordinances.

(4) The University shall not, save with the previous sanction of the Governor General in Council, recognize (for the purposes of admission to a course of study for a degree), as equivalent to its own degrees, any degree conferred by any other University, or, as equivalent to the Intermediate or Matriculation Examination of an Indian University, any examination conducted by any other authority.

**37.** (1) Subject to the provisions of this Act and of the Statutes, all arrangements for the conduct of examinations shall be made by the Academic Council in such manner as may be prescribed by this Act and the Ordinances.

(2) If, during the course of an examination, any examiner is for any cause incapable of acting as such, the Vice-Chancellor shall appoint an examiner to fill the vacancy, and shall report the appointment to the Executive Council.

(3) At least one examiner who is not a member of the University shall be appointed for each subject included in a Department of teaching and forming part of the course which is required for a University degree.

(4) The Academic Council shall appoint examination committees, consisting of members of its own body or of other persons or of both, as it thinks fit, to moderate examination questions, to moderate and prepare the results of the examinations and to report such results to the Executive Council for publication.

#### *Annual Report and Accounts.*

**38.** The annual report of the University shall be prepared under the direction of the Executive Council, and shall be submitted to the Court on or before such date as may be prescribed by the

Statutes, and shall be considered by the Court at its annual meeting. The Court may pass resolutions thereon and communicate the same to the Executive Council.

**39.** (1) The annual accounts and balance-sheet of the University shall be prepared under the direction of the Executive Council, and shall be submitted to the Governor General in Council for the purposes of audit.

(2) The accounts when audited shall be published by the Executive Council in the Gazette of India, and copies thereof shall, together with copies of the audit report, if any, be submitted to the Court and to the Governor General in Council. The Executive Council shall also submit to the Court, on or before such date as may be prescribed by the Statutes, a statement of the financial estimates for the ensuing year.

(3) The annual accounts and the financial estimates shall be considered by the Court at its annual meeting, and the Court may pass resolutions thereon and communicate the same to the Executive Council.

#### *Supplementary Provisions.*

**40.** The Chancellor shall, with the concurrence of not less than two-thirds of the members of the Court for the time being in India, have power to remove the name of any person from the register of registered graduates.

**41.** If any question arises whether any person has been duly elected or appointed as, or is entitled to be, a member of any authority or other body of the University, the matter shall be referred to the Chancellor, whose decision thereon shall be final.

**42.** Where any authority of the University is given power by this Act or the Statutes to appoint committees, such committees shall, save as otherwise provided, consist of members of the authority concerned and of such other persons (if any) as the authority in each case may think fit.

**43.** All casual vacancies among the members (other than *ex-officio* members) of any authority or other body of the University shall be filled, as soon as conveniently may be, by the person or body who appointed, elected or co-opted the member whose place has become vacant, and the person appointed, elected or co-opted to a casual vacancy shall be a member of such authority or body for the residue of the term for which the person whose place he fills would have been a member.

**44.** No act or proceeding of any authority or other body of the University shall be invalidated merely by reason of the existence of a vacancy or vacancies among its members.

**45.** Any dispute arising out of a contract between the University and any officer or teacher of the University shall, on the

request of the officer or teacher concerned, be referred to a Tribunal of Arbitration consisting of one member appointed by the Executive Council, one member nominated by the officer or teacher concerned, and an umpire appointed by the Chancellor. The decision of the Tribunal shall be final, and no suit shall lie in any Civil Court in respect of the matters decided by the Tribunal. Every such request shall be deemed to be a submission to arbitration upon the terms of this section, within the meaning of the Indian Arbitration Act, 1899, and all the provisions of IX of 1899, that Act, with the exception of section 2 thereof, shall apply accordingly.

**46.** (1) The University shall constitute, for the benefit of its officers, pension and provident teachers, clerical staff and funds. servants, in such manner and subject to such conditions as may be prescribed by the Statutes, such pension, insurance and provident funds as it may deem fit.

(2) Where any such pension, insurance or provident fund has been so constituted, the Governor General in Council may declare that the provisions of the Provident Funds Act, 1897, shall IX of 1897: apply to such fund as if it were a Government Provident Fund.

#### *Transitory Provisions.*

**47.** If any difficulty arises with respect to Removal of difficult the establishment of the ties. University or in connection with the first meeting of any authority of the University or otherwise in first giving effect to the provisions of this Act, the Governor General in Council may, at any time before all the authorities of the University have been constituted, by order make any appointment or do any thing, consistent so far as may be with the provisions of this Act and the Statutes, which appears to him necessary or expedient for the purpose of removing the difficulty, and every such order shall have effect as if such appointment or action had been made or taken in the manner provided in this Act:

Provided that, before making any such order, the Governor General in Council shall ascertain and consider the opinion of the Vice-Chancellor, if a Vice-Chancellor has been appointed, and of such of the authorities of the University as have been constituted, on the proposed order.

**48.** Notwithstanding anything contained Completion of in this Act or the courses for students at Ordinances, any student of Delhi Colleges. any of the following Colleges at Delhi, namely, the St. Stephen's College, the Hindu College and the Ramjas College, who, immediately prior to the commencement of this Act, was studying for any examination of the University of the Punjab higher than the Intermediate Examination, shall be permitted to complete his course in preparation therefor, and the University shall provide for such students instruction and examinations in accordance with the Prospectus of Studies of the University of the Punjab.

## THE SCHEDULE.

## THE FIRST STATUTES OF THE UNIVERSITY.

[See section 29 (1).]

1. In these Statutes, unless there is anything repugnant in the subject or context,—
- Definitions.
- (a) "the Act" means the Delhi University Act, 1922, and "section" means a section of the Act; and
- (b) "officers," "authorities," "Professors," "Readers," "Lecturers," "clerical staff" and "servants" mean, respectively, officers, authorities, Professors, Readers, Lecturers, clerical staff and servants of the University.
2. (1) In addition to the officers mentioned in sub-section (1) of section 18, the following persons shall be *ex-officio* members of the Court, namely :—
- (i) the Chief Commissioner of Delhi;
  - (ii) the Director-General, Indian Medical Service;
  - (iii) the Educational Commissioner with the Government of India;
  - (iv) the Director of Public Instruction in the Punjab;
  - (v) the Superintendent of Education, Delhi and Ajmer-Merwara;
  - (vi) the Chairman of the Punjab Chamber of Commerce;
  - (vii) the Chairman of the Delhi Municipality;
  - (viii) the Chairman of the Delhi District Board;
  - (ix) the Senior Officer serving in the Public Works Department under the Chief Commissioner of Delhi;
  - (x) the Senior Medical Officer, Delhi;
  - (xi) the Principals of the Intermediate Colleges in Delhi which prepare candidates for admission to the University;
  - (xii) the Wardens.
- (2) The number of graduates to be elected as members of the Court by the registered graduates from among their own body shall be twenty-five.
- (3) The number of teachers to be elected as members of the Court by the teachers other than Professors and Readers shall be ten.
- (4) The number of persons to be elected as members of the Court by associations or other bodies approved in this behalf by the Chancellor shall not exceed eight.
- (5) The number of persons to be elected by the elected Members of the Council of State and the Legislative Assembly from among their own numbers shall be two and four, respectively.
- (6) The number of persons to be appointed by the Chancellor under clause (xi) of sub-section (1) of section 18 shall be fifteen.
- (7) Save as otherwise provided, members of the Court other than *ex-officio* members shall hold office for a period of three years :
- Provided that members elected under clause (xi) of sub-section (1) of section 18 shall hold office so long only within the said period as they continue to be teachers.

3. (1) The members of the Executive Council, Constitution of the in addition to the Vice-Executive Council. Chancellor, the Rector and the Treasurer, shall be—

*Class I.—Ex-officio members.*

- (i) The Superintendent of Education, Delhi and Ajmer-Merwara;
- (ii) the Deans of the Faculties;
- (iii) the Principals.

*Class II.—Other members.*

- (iv) Five members of the Court elected by the Court at its annual meeting, of whom at least two shall be graduates of the University elected by the registered graduates from among their own number;
- (v) two members of the Academic Council elected by the Academic Council; and
- (vi) two persons nominated by the Chancellor.

(2) Members other than *ex-officio* members shall hold office for a period of three years :

Provided that members elected by any body of persons from among their own number shall hold office so long only within the said period as they continue to be members of the body which elected them.

4. Subject to the provisions of the Act, the Executive Council shall have the following powers, namely :—

- (a) to institute, at its discretion, such Professorships, Readerships, Lectureships, or other teaching posts as may be proposed by the Academic Council;
- (b) to abolish or suspend, after report from the Academic Council thereon, any Professorship, Readership, Lectureship, or other teaching post;
- (c) to appoint or recognize teachers of the University and to appoint officers, clerical staff and servants, in accordance with the Statutes;
- (d) to appoint all examiners after considering the recommendations of the Academic Council;
- (e) to delegate, subject to such conditions as may be prescribed by Regulations made by the Executive Council, its power to appoint and recognize teachers of the University and to appoint officers, clerical staff and servants to such person or authority as the Executive Council may determine;
- (f) to manage and regulate the finances, accounts, investments, property and all administrative affairs whatsoever of the University, and, for that purpose, to appoint such agents as it may think fit;
- (g) to accept bequests, donations and transfers of property to the University :  
provided that all such bequests, donations and transfers shall be reported to the Court at its next meeting ;

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- (k) to provide the buildings, premises, furniture, apparatus, equipment and other means needed for carrying on the work of the University ;
- (l) after report from the Finance Committee, to enter into, vary, carry out, confirm and cancel contracts on behalf of the University ; and
- (j) to invest any monies belonging to the University, including any unapplied income, in any of the securities described in section 20 of the Indian Trusts Act, 1882, or in the purchase of immoveable property in India, with the like power of varying such investments ; or to place on fixed deposit in any bank approved in this behalf by the Governor General in Council any portion of such monies not required for immediate expenditure.

5. (1) The members of the Academic Council, in addition to the Vice-Chancellor and the Rector, shall be—

*Class I.—Ex-officio members.*

- (i) The Deans of the Faculties ;
- (ii) the Principals ;
- (iii) the Professors and Readers ; and
- (iv) the Librarian of the University.

*Class II.—Other members.*

- (v) Persons, if any, not exceeding three in number and not being teachers, appointed by the Chancellor on account of their possessing expert knowledge in such subjects of study as may be selected by the *ex-officio* members of the Academic Council.

(2) The Academic Council as constituted under sub-clause (1) shall co-opt as members teachers of the University not exceeding one-tenth of its numbers as so constituted

(3) Members other than *ex-officio* members shall hold office for a period of three years :

Provided that teachers of the University co-opted as such shall hold office so long only within the said period as they continue to be teachers of the University.

6. The Academic Council shall have the Powers of the following powers, namely :—  
Academic Council.

- (a) to make proposals to the Executive Council for the institution of Professorships, Readerships, Lectureships or other teaching posts, and in regard to the duties and emoluments thereof ;
- (b) to make Regulations for, and to award in accordance with such Regulations, Fellowships, Scholarships, Exhibitions, bursaries, medals and other rewards ;
- (c) to recommend examiners for appointment after report from the Faculties concerned ;
- (d) to control the University Library, to frame Regulations regarding its use, and to appoint a Library Committee under the general control of the

Academic Council to manage the affairs of the Library ;

- (e) to assign subjects to the Faculties ;
- (f) to assign teachers to the Faculties ;
- (g) to promote research within the University and to require reports on such research from the persons employed thereon ;
- (h) to provide for the inspection of Colleges and Halls in respect of the instruction and discipline therein, and to submit reports thereon to the Executive Council ; and
- (i) to organize the teaching of the University and to control the work of teachers and Colleges.

7. (1) Each Faculty shall consist of—  
The Faculties.

- (i) the heads of the Departments comprised in the Faculty ;
- (ii) such teachers of subjects assigned to the Faculty as may be appointed to the Faculty by the Academic Council ;
- (iii) such teachers of subjects not assigned to the Faculty but having, in the opinion of the Academic Council, an important bearing on those subjects, as may be appointed to the Faculty by the Academic Council ; and
- (iv) such other persons as may be appointed to the Faculty by the Academic Council on account of their possessing expert knowledge in a subject or subjects assigned to the Faculty.

(2) The total number of members of each Faculty shall not exceed, in the case of the Faculties of Arts and Science, twenty-five, and in the case of any other Faculty, fifteen, except with the sanction of the Chancellor given on the request of the Academic Council.

8. Subject to the provisions of the Act, each Faculty shall have the Powers of the following powers, namely :—  
Faculties.

- (a) to constitute Committees of Courses and Studies ; and
- (b) to recommend to the Academic Council, after consulting the Committees of Courses and Studies, the names of examiners in subjects assigned to the Faculty.

9. There shall be a Board of Co-ordination composed of the Vice-Chancellor, who shall be Chairman thereof, the Rector, the Deans of the Faculties and the Registrar, to co-ordinate the teaching of the University, and in particular to co-ordinate the work and time-tables of the various Faculties, and to assign lecture-rooms, laboratories, and other rooms to the Faculties.

10. (1) The Dean of each Faculty shall be the executive officer of the Faculty, and shall preside at its meetings. He shall hold office for three years.

(2) He shall issue the lecture lists of the University in the Departments comprised in the Faculty, and shall be responsible for the conduct of teaching therein.



(3) He shall have the right to be present and to speak at any meeting of any committee of the Faculty, but not to vote unless he is a member of the committee.

11. The appointment of a Warden shall, in the case of a Hall maintained by the University, be made by the Executive Council, and in other cases be subject to the approval of the Executive Council.

12. Every student not residing in a College or Attachment to College or Hall shall be attached to a College or Hall for tutorial help and disciplinary supervision and for such other purposes as may be prescribed by the Ordinances.

13. The Court may, on the recommendation of the Executive Council, by a resolution passed with the concurrence of not less than two-thirds of the members voting, withdraw any degree or diploma conferred by the University.

14. (1) All proposals for the conferment of honorary degrees shall be made by the Academic Council to the Executive Council, and shall require the assent of the Court before submission to the Chancellor for confirmation :

Provided that, in cases of urgency, the Chancellor may act on the recommendation of the Executive Council only.

(2) Any honorary degree conferred by the University may, with the previous approval of two-thirds of the members present at any meeting of the Court and the sanction of the Chancellor, be withdrawn by the Executive Council.

15. The following persons shall, on payment of such fees as may be prescribed by the Statutes, be entitled to have their names enrolled in the register of registered graduates, namely :—

- (a) for a period of five years from the commencement of the Act, all graduates of three years' standing or upwards of any other Indian University incorporated by any law for the time being in force, or of any University in the United Kingdom, who reside or carry

on business in the Province of Delhi and apply to the University to be granted *ad eundem* degrees of the University; and

- (b) all graduates of the University of three years' standing and upwards.

16. There shall be the following officers, namely :—

- (i) a Proctor for the maintenance of the general discipline of the University, to whom the Vice-Chancellor may delegate such of his disciplinary powers as he may think fit; and  
(ii) a Librarian for the University Library.

17. (1) No person shall be appointed or recognized as a teacher of the University except on the nomination of a committee of selection constituted for the purpose as follows, namely :—

- (i) the Vice-Chancellor ;  
(ii) the Rector ;  
(iii) the Dean of the Faculty concerned ;  
(iv) two members of the Executive Council selected by the Executive Council ;  
(v) two members of the Academic Council selected by the Academic Council on the ground of their special knowledge of, or interest in, the subject or subjects with which the teacher will be concerned ;  
(vi) a representative of the Governing Body of each College ; and  
(vii) three persons (two of whom shall not be officers of the University) appointed by the Chancellor.

(2) Committees of selection appointed under sub-clause (1) shall report to the Executive Council which shall, if it accepts the nomination of the committee, make the appointment or confer the recognition, as the case may be. If the Executive Council does not accept the nomination of the committee, it shall refer the case to the Chancellor, who shall appoint or recognize such person as he thinks fit.

H. MONCRIEFF SMITH,  
Secretary to the Government of India.



## GOVERNMENT OF INDIA.

## LEGISLATIVE DEPARTMENT.

The following Act of the Indian Legislature received the assent of the Governor General on the 5th March, 1922, and is hereby promulgated for general information :—

## ACT No IX OF 1922.

*An Act further to amend the Provincial Small Cause Courts Act, 1887, and the Code of Civil Procedure, 1908, in order to provide for the award of costs by way of compensation in respect of false or vexatious claims or defences in civil suits or proceedings.*

WHEREAS it is expedient further to amend the Provincial Small Cause Courts Act, 1887, and the Code of Civil Procedure, 1908; It is hereby enacted as follows :—

1. (1) This Act may be called the Civil Procedure (Amendment) Act, 1922.

(2) The Local Government may, with the previous sanction of the Governor General in Council, by notification in the local official Gazette, direct that this Act shall come into force throughout the Province or in any part thereof on such date as may be specified in the notification.

2. In Part I of the Code of Civil Procedure, 1908 (hereinafter referred to as the said Code), after section 35 the following section shall be inserted, namely :—

" 35A. (1) If in any suit or other proceeding, not being an appeal, any party objects to the claim or defence on the ground that the claim or defence or any part of it is, as against the objector, false or vexatious to the knowledge of the party by whom it has been put forward, and if thereafter, as against the objector, such claim or defence is disallowed, abandoned or withdrawn in whole or in part, the Court, if the objection has been taken at the earliest opportunity and if it is satisfied of the justice thereof, may, after recording its reasons for holding such claim or defence to be false or vexatious, make an order for the payment to the objector, by the party by whom such claim or defence has been put forward, of costs by way of compensation.

(2) No Court shall make any such order for the payment of an amount exceeding one thousand rupees or exceeding the limits of its pecuniary jurisdiction, whichever amount is less :

Provided that where the pecuniary limits of the jurisdiction of any Court exercising the jurisdiction of a Court of Small Causes under the Provincial Small Cause Courts Act, 1887, and not being a Court constituted under that Act,

are less than two hundred and fifty rupees, the High Court may empower such Court to award as costs under this section any amount not exceeding two hundred and fifty rupees and not exceeding those limits by more than one hundred rupees :

Provided, further, that the High Court may limit the amount which any Court or class of Courts is empowered to award as costs under this section.

(3) No person against whom an order has been made under this section shall, by reason thereof, be exempted from any criminal liability in respect of any claim or defence made by him.

(4) The amount of any compensation awarded under this section in respect of a false or vexatious claim or defence shall be taken into account in any subsequent suit for damages or compensation in respect of such claim or defence.

3. In sub-section (1) of section 104 of the Amendment of section 104, Act V of 1908, said Code,—

(i) after clause (f) the following clause shall be inserted, namely :—

" (ff) an order under section 35A " ; and

(ii) after clause (i) the following proviso shall be inserted, namely :—

" Provided that no appeal shall lie against any order specified in clause (ff) save on the ground that no order, or an order for the payment of a less amount, ought to have been made."

4. To rule 33 of Order XLI of the First Amendment of Order Schedule to the said Code, XLI, Schedule I, Act the following proviso V of 1908. shall be added, namely :—

" Provided that the Appellate Court shall not make any order under section 35A, in pursuance of any objection on which the Court from whose decree the appeal is preferred has omitted or refused to make such order."

5. In section 24 of the Provincial Small Cause Courts Act, 1887, for the words and figures "section 588, clause (29) of the Code of Civil Procedure" the words and figures "clause (ff) or clause (h) of sub-section (1) of section 104 of the Code of Civil Procedure, 1908," shall be substituted ; and after the words "District Court," the following words shall be added, namely :—

"on any ground on which an appeal from such order would lie under that section."

H. MONCRIEFF SMITH,  
Secretary to the Government of India.



## GOVERNMENT OF INDIA.

## LEGISLATIVE DEPARTMENT.

The following Act of the Indian Legislature received the assent of the Governor General on the 5th March, 1922, and is hereby promulgated for general information :—

## ACT No. X OF 1922.

*An Act further to amend the Indian Limitation Act, 1908.*

IX of 1908. WHEREAS it is expedient further to amend the Indian Limitation Act, 1908 ; It is hereby enacted as follows :—

1. This Act may be called the Indian Limitation (Amendment) Act, 1922.

IX of 1908. 2. In section 5 of the Indian Limitation Act, 1908 (hereinafter referred to as the said Act), for the words "by any enactment or rule" the words "by or under any enactment" shall be substituted.

3. In section 29 of the said Act,—

Amendment of section 29, Act IX of 1908.

(a) for sub-section (1) the following sub-sections shall be substituted, namely :—

"29.(1) Nothing in this Act shall affect section 25 of the Indian Contract Act, 1872.

Savings.

IX of 1872.

(2) Where any special or local law prescribes for any suit, appeal or application a period of limitation different from the period prescribed therefor by the first schedule, the provisions of section 3 shall apply, as if such period were prescribed therefor in that schedule, and for the purpose of determining any period of limitation prescribed for any suit, appeal or application by any special or local law—

(a) the provisions contained in section 4, sections 9 to 18, and section 22 shall apply only in so far as and to the extent to which, they are not expressly excluded by such special or local law ; and

(b) the remaining provisions of this Act shall not apply.", and

(b) sub-sections (2) and (3) shall be re-numbered (3) and (4), respectively.

H. MONCRIEFF SMITH,  
Secretary to the Government of India.



## GOVERNMENT OF INDIA.

## LEGISLATIVE DEPARTMENT.

The following Act of the Indian Legislature received the assent of the Governor General on the 5th March, 1922, and is hereby promulgated for general information :—

## ACT No. XI OF 1922.

*An Act to consolidate and amend the law relating to Income-tax and Super-tax.*

WHEREAS it is expedient to consolidate and amend the law relating to Income-tax and Super-tax; It is hereby enacted as follows:—

1. (1) This Act may be called the Indian Income-tax Act, 1922.

Short title, extent and commencement.

(2) It extends to the whole of British India, including British Baluchistan and the Sonthal Parganas, and applies also, within the dominions of Princes and Chiefs in India in alliance with His Majesty, to British subjects in those dominions who are in the service of the Government of India or of a local authority established in the exercise of the powers of the Governor General in Council in that behalf, and to all other servants of His Majesty in those dominions.

(3) It shall come into force on the first day of April, 1922.

2. In this Act, unless there is anything repugnant in the subject or context,—

Definitions.

(1) "agricultural income" means—

(a) any rent or revenue derived from land which is used for agricultural purposes, and is either assessed to land-revenue in British India or subject to a local rate assessed and collected by officers of Government as such;

(b) any income derived from such land by—

(i) agriculture, or

(ii) the performance by a cultivator or receiver of rent-in-kind of any process ordinarily employed by a cultivator or receiver of rent-in-kind to render the produce raised or received by him fit to be taken to market, or

(iii) the sale by a cultivator or receiver of rent-in-kind of the produce raised or received by him, in respect of which no process has been performed other than a process of the nature described in sub-clause (ii);

(c) any income derived from any building owned and occupied by the receiver of the rent or revenue of any such land, or occupied by the cultivator, or the receiver of

rent-in-kind, of any land with respect to which, or the produce of which, any operation mentioned in sub-clauses (ii) and (iii) of clause (b) is carried on;

Provided that the building is on or in the immediate vicinity of the land, and is a building which the receiver of the rent or revenue or the cultivator or the receiver of the rent-in-kind by reason of his connection with the land, requires as a dwelling-house, or as a store-house, or other out-building;

(2) "assessee" means a person by whom Income-tax is payable;

(3) "Assistant Commissioner" means a person appointed to be an Assistant Commissioner of Income-tax under section 5;

(4) "business" includes any trade, commerce, or manufacture or any adventure or concern in the nature of trade, commerce or manufacture;

(5) "Commissioner" means a person appointed to be a Commissioner of Income-tax under section 5;

(6) "company" means a company as defined in the Indian Companies Act, 1913, or formed in pursuance of an Act or Parliament or of Royal Charter or Letters Patent, or of an Act of the Legislature of a British possession, and includes any foreign association carrying on business in British India whether incorporated or not, and whether its principal place of business is situate in British India or not, which the Board of Inland Revenue may, by general or special order, declare to be a company for the purposes of this Act;

(7) "Income-tax Officer" means a person appointed to be an Income-tax Officer under section 5;

(8) "Magistrate" means a Presidency Magistrate or a Magistrate of the first class, or a Magistrate of the second class specially empowered by the Local Government to try offences against this Act;

(9) "person" includes a Hindu undivided family;

(10) "prescribed" means prescribed by rules made under this Act;

(11) "previous year" means—

(a) the twelve months ending on the 31st day of March next preceding the year

for which the assessment is to be made, or, if the accounts of the assessee have been made up to a date within the said twelve months in respect of a year ending on any date other than the said 31st day of March, then at the option of the assessee the year ending on the day to which his accounts have so been made up :

Provided that, if this option has once been exercised by the assessee, it shall not again be exercised so as to vary the meaning of the expression "previous year" as then applicable to such assessee except with the consent of the Income-tax Officer and upon such conditions as he may think fit ; or

- (b) in the case of any person, business or company or class of person, business or company, such period as may be determined by the Board of Inland Revenue or by such authority as the Board may authorise in this behalf ;

(12) "principal officer," used with reference to a local authority or a company or any other public body or association, means—

- (a) the secretary, treasurer, manager or agent of the authority, company, body or association, or  
(b) any person connected with the authority, company, body or association upon whom the Income-tax Officer has served a notice of his intention of treating him as the principal officer thereof ;

XLV of 1860. (13) "public servant" has the same meaning as in the Indian Penal Code ;

(14) "registered firm" means a firm constituted under an instrument of partnership specifying the individual shares of the partners of which the prescribed particulars have been registered with the Income-tax Officer in the prescribed manner ;

(15) "total income" means total amount of income, profits and gains from all sources to which this Act applies computed in the manner laid down in section 16 ; and

(16) "unregistered firm" means a firm which is not a registered firm.

## CHAPTER I.

### CHARGE OF INCOME-TAX.

3. Where any Act of the Indian Legislature enacts that income-tax shall be charged for any year at any rate or rates applicable to the total income of an assessee, tax at that rate or those rates shall be charged for that year in accordance with, and subject to the provisions of, this Act in respect of all income, profits and gains of the previous year of every individual, company, firm and Hindu undivided family.

4. (1) Save as hereinafter provided, this Act shall apply to all income, profits or gains, as described or comprised in section 6, from whatever source derived, accruing, or arising, or received in British India, or deemed under the provisions of this Act to accrue, or arise, or to be received in British India.

(2) Profits and gains of a business accruing or arising without British India to a person resident in

British India shall be deemed to be profits and gains of the year in which they are received or brought into British India, notwithstanding the fact that they did not so accrue or arise in that year, provided that they are so received or brought in within three years of the end of the year in which they accrued or arose.

*Explanation.*—Profits or gains accruing or arising without British India shall not be deemed to be received or brought into British India within the meaning of this sub-section by reason only of the fact that they are taken into account in the balance sheet prepared in British India.

(3) This Act shall not apply to the following classes of income :—

- (i) Any income derived from property held under trust or other legal obligation wholly for religious or charitable purposes, and in the case of property so held in part only for such purposes, the income applied, or finally set apart for application, thereto.
- (ii) Any income of a religious or charitable institution derived from voluntary contributions and applicable solely to religious or charitable purposes.
- (iii) The income of local authorities.
- (iv) Interest on securities which are held by, or are the property of, any Provident Fund to which the Provident Funds Act, 1897, applies, or any Provident Insurance Society to which the Provident Insurance Societies Act, 1912, is, or, but for an exemption under that Act, would be, applicable. IX of 1897. V of 1912.
- (v) Any capital sum received in commutation of the whole or a portion of a pension, or in the nature of consolidated compensation for death or injuries, or in payment of any insurance policy, or as the accumulated balance at the credit of a subscriber to any such Provident Fund.
- (vi) Any special allowance, benefit or perquisite specifically granted to meet expenses wholly and necessarily incurred in the performance of the duties of an office or employment of profit.
- (vii) Any receipts not being receipts arising from business or the exercise of a profession, vocation or occupation, which are of a casual and non-recurring nature, or are not by way of addition to the remuneration of an employé.
- (viii) Agricultural income.

In this sub-section "charitable purpose" includes relief of the poor, education, medical relief, and the advancement of any other object of general public utility.

## CHAPTER II.

### INCOME-TAX AUTHORITIES.

5. (1) There shall be the following classes of Income-tax authorities for the purposes of this Act, namely :—

- (a) a Board of Inland Revenue,
- (b) Commissioners of Income-tax,



(c) Assistant Commissioners of Income tax, and

(d) Income-tax Officers.

(2) The Board of Inland Revenue shall consist of one or more persons appointed by the Governor General in Council.

(3) There shall be a Commissioner of Income-tax for each province who shall be appointed by the Governor General in Council after consideration of any recommendation made by the Local Government in this behalf.

(4) Assistant Commissioners of Income-tax and Income-tax Officers shall, subject to the control of the Governor General in Council, be appointed by the Commissioner of Income-tax by order in writing. They shall perform their functions in respect of such classes of persons and such classes of income and in respect of such areas as the Commissioner of Income-tax may direct. The Commissioner may, by general or special order in writing, direct that the powers conferred on the Income-tax Officer and the Assistant Commissioner by or under this Act shall, in respect of any specified case or class of cases, be exercised by the Assistant Commissioner and the Commissioner, respectively, and, for the purposes of any case in respect of which such order applies, references in this Act or in any rules made hereunder to the Income-tax Officer and the Assistant Commissioner shall be deemed to be references to the Assistant Commissioner and the Commissioner, respectively.

(5) The Board of Inland Revenue may, by notification in the Gazette of India, appoint Commissioners of Income-tax, Assistant Commissioners of Income-tax and Income-tax Officers to perform such functions in respect of such classes of persons or such classes of income, and for such areas, as may be specified in the notification, and thereupon the functions so specified shall cease, within the specified area, to be performed, in respect of the specified classes of persons or classes of income, by the authorities appointed under sub-sections (3) and (4).

(6) Assistant Commissioners of Income-tax and Income-tax Officers appointed under sub-section (4) shall, for the purposes of this Act, be subordinate to the Commissioner of Income-tax appointed under sub-section (3) for the province in which they perform their functions.

### CHAPTER III.

#### TAXABLE INCOME.

6. Save as otherwise provided by this Act, the following heads of income, profits and gains, shall be chargeable to income-tax in the manner hereinafter appearing, namely:—

- (i) Salaries.
- (ii) Interest on securities.
- (iii) Property.
- (iv) Business.
- (v) Professional earnings.
- (vi) Other sources.

7. (1) The tax shall be payable by an assessee under the head "Salaries" in respect of any salary or wages, any annuity, pension or gratuity, and any fees, commissions, perquisites or profits received by him in lieu of, or in addition to, any salary or

wages, which are paid by or on behalf of Government, a local authority, a company, or any other public body or association, or by or on behalf of any private employer:

Provided that the tax shall not be payable in respect of any sum deducted under the authority of Government from the salary of any individual for the purpose of securing to him a deferred annuity or of making provision for his wife or children, provided that the sum so deducted shall not exceed one-sixth of the salary.

(2) Any income which would be chargeable under this head if paid in British India shall be deemed to be so chargeable if paid to a British subject or any servant of His Majesty in any part of India by Government or by a local authority established by the Governor General in Council.

8. The tax shall be payable by an assessee under the head "Interest on securities" in respect of the interest receivable by him on any security of the Government of India or of a Local Government, or on debentures or other securities for money issued by or on behalf of a local authority or a company:

Provided that no income-tax shall be payable on the interest receivable on any security of the Government of India issued or declared to be income-tax free:

Provided, further, that the income-tax payable on the interest receivable on any security of a Local Government issued income-tax free shall be payable by that Local Government.

9. (1) The tax shall be payable by an assessee under the head "Property" in respect of the *bona fide* annual value of property consisting of any buildings or lands appurtenant thereto of which he is the owner, other than such portions of such property as he may occupy for the purposes of his business, subject to the following allowances, namely:—

- (i) where the property is in the occupation of the owner, or where it is let to a tenant and the owner has undertaken to bear the cost of repairs, a sum equal to one-sixth of such value;
- (ii) where the property is in the occupation of a tenant who has undertaken to bear the cost of repairs, the difference between such value and the rent paid by the tenant up to but not exceeding one sixth of such value;
- (iii) the amount of any annual premium paid to insure the property against risk of damage or destruction;
- (iv) where the property is subject to a mortgage or charge or to a ground rent, the amount of any interest on such mortgage or charge or of any such ground rent;
- (v) any sums paid on account of land-revenue in respect of the property;
- (vi) in respect of collection charges, a sum not exceeding the prescribed maximum;
- (vii) in respect of vacancies, such sum as the Income tax Officer may determine having regard to the circumstances of the case:

Provided that the aggregate of the allowances made under this sub-section shall in no case exceed the annual value.

(5) For the purposes of this section, the expression "annual value" shall be deemed to mean the sum for which the property might reasonably be expected to let from year to year :

Provided that, where the property is in the occupation of the owner for the purposes of his own residence, such sum shall, for the purposes of this section, be deemed not to exceed ten per cent. of the total income of the owner.

**10. (1)** The tax shall be payable by an assessee under the head Business. "Business" in respect of the profits or gains of any business carried on by him.

(2) Such profits or gains shall be computed after making the following allowances, namely :—

(i) any rent paid for the premises in which such business is carried on, provided that, when any substantial part of the premises is used as a dwelling-house by the assessee, the allowance under this clause shall be such sum as the Income-tax Officer may determine having regard to the proportional part so used ;

(ii) in respect of repairs, where the assessee is the tenant only of the premises, and has undertaken to bear the cost of such repairs, the amount paid on account thereof, provided that, if any substantial part of the premises is used by the assessee as a dwelling-house, a proportional part only of such amount shall be allowed ;

(iii) in respect of capital borrowed for the purposes of the business, where the payment of interest thereon is not in any way dependent on the earning of profits, the amount of the interest paid ;

*Explanation :—*Recurring subscriptions paid periodically by shareholders or subscribers in such Mutual Benefit Societies as may be prescribed, shall be deemed to be capital borrowed within the meaning of this clause ;

(iv) in respect of insurance against risk of damage or destruction of buildings, machinery, plant, furniture, stocks or stores, used for the purposes of the business, the amount of any premium paid ;

(v) in respect of current repairs to such buildings, machinery, plant, or furniture, the amount paid on account thereof ;

(vi) in respect of depreciation of such buildings, machinery, plant, or furniture being the property of the assessee, a sum equivalent to such percentage on the original cost thereof to the assessee as may in any case or class of cases be prescribed ;

Provided that—

(a) the prescribed particulars have been duly furnished ;

(b) where full effect cannot be given to any such allowance in any year owing to there being no profits or gains chargeable for that year, or owing to the

profits or gains chargeable being less than the allowance, the allowance or part of the allowance to which effect has not been given, as the case may be, shall be added to the amount of the allowance for depreciation for the following year and deemed to be part of that allowance, or, if there is no such allowance for that year, be deemed to be the allowance for that year, and so on for succeeding years ; and

(c) the aggregate of all such allowances made under this Act or any Act repealed hereby, or under the Indian Income-tax Act, 1886, shall, in no case, exceed the original cost to the assessee of the buildings, machinery, plant, or furniture, as the case may be ;

(vii) in respect of any machinery or plant which, in consequence of its having become obsolete, has been sold or discarded, the difference between the original cost to the assessee of the machinery or plant as reduced by the aggregate of the allowances made in respect of depreciation under clause (vi), or any Act repealed hereby, or the Indian Income-tax Act, 1886, and the amount for which the machinery or plant is actually sold, or its scrap value ;

(viii) any sums paid on account of land-revenue, local rates or municipal taxes in respect of such part of the premises as is used for the purposes of the business ;

(ix) any expenditure (not being in the nature of capital expenditure) incurred solely for the purpose of earning such profits or gains.

(3) In sub-section (2), the word "paid" means actually paid or incurred according to the method of accounting upon the basis of which the profits or gains are computed under this section.

**11. (1)** The tax shall be payable by an assessee under the head Professional earnings. "Professional earnings" in respect of the profits or gains of any profession or vocation followed by him.

(2) Such profits or gains shall be computed after making allowance for any expenditure (not being in the nature of capital expenditure) incurred solely for the purposes of such profession or vocation, provided that no allowance shall be made on account of any personal expenses of the assessee.

(3) Professional fees paid in any part of India to a person ordinarily resident in British India shall be deemed to be profits or gains chargeable under this head.

**12. (1)** The tax shall be payable by an assessee under the head "Other sources" in respect of income, profits and gains of every kind and from every source to which this Act applies (if not included under any of the preceding heads).

(2) Such income, profits and gains shall be computed after making allowance for any expenditure (not being in the nature of capital expenditure) incurred solely for the purpose of making or earning such income, profits or gains, provided that no allowance shall be made on account of any personal expenses of the assessee.

**13.** Income, profits and gains shall be computed, for the purposes of sections 10, 11 and 12, in accordance with the method of accounting regularly employed by the assessee:

Provided that, if no method of accounting has been regularly employed, or if the method employed is such that, in the opinion of the Income-tax Officer, the income, profits and gains cannot properly be deducted therefrom, then the computation shall be made upon such basis and in such manner as the Income-tax Officer may determine.

**14.** (1) The tax shall not be payable by an assessee in respect of any sum which he receives as a member of a Hindu undivided family.

(2) The tax shall not be payable by an assessee in respect of—

(a) any sum which he receives by way of dividend as a shareholder in a company where the profits or gains of the company have been assessed to income-tax; or

(b) such an amount of the profits or gains of any firm which have been assessed to income-tax as is proportionate to his share in the firm.

**15.** (1) The tax shall not be payable by an assessee in respect of any sums paid by him to effect an insurance on his own life or on the life of his wife, or in respect of a contract for a deferred annuity on his own life or on the life of his wife, or as a contribution to any Provident Fund to which the Provident Funds Act, 1897, applies, or to any Provident Fund which complies with the provisions of the Provident Insurance Societies Act, 1912, or has been exempted from the provisions of that Act.

(2) Where the assessee is a Hindu undivided family, there shall be exempted under sub-section (1) any sums paid to effect an insurance on the life of any male member of the family or of the wife of any such member.

(3) The aggregate of any sums exempted under this section shall not, together with any sums exempted under the proviso to sub-section (1) of section 7, exceed one-sixth of the total income of the assessee.

**16.** (1) In computing the total income of an assessee sums exempted under the proviso to sub-section (1) of section 7, the provisos to section 8, sub-section (2) of section 14 and section 15, shall be included.

(2) For the purposes of sub-section (1), any sum mentioned in clause (a) of sub-section (2) of section 14 shall be increased by the amount of income-tax payable by the company in respect of the dividend received.

**17.** Where owing to the fact that the total income of any assessee has reached or exceeded a certain limit, he is liable to pay income-tax or to pay income-tax at a higher rate, the amount of income-tax payable by him shall, where necessary, be reduced so as not to exceed the aggregate of the following amounts, namely:—

(a) the amount which would have been payable if his total income had been a sum less by one rupee than that limit, and

(b) the amount by which his total income exceeds that sum.

#### CHAPTER IV.

##### DEDUCTIONS AND ASSESSMENT.

**18.** (1) Income-tax shall, unless otherwise prescribed in the case of any security of the Government of India, be leviable in advance by deduction at the time of payment in respect of income chargeable under the following heads:—

(i) "Salaries"; and

(ii) "Interest on securities."

(2) Any person responsible for paying any income chargeable under the head "Salaries" shall, at the time of payment, deduct income-tax on the amount payable at the rate applicable to the estimated income of the assessee under this head:

Provided that such person may, at the time of making any deduction, increase or reduce the amount to be deducted under this sub-section for the purpose of adjusting any excess or deficiency arising out of any previous deduction or failure to deduct.

(3) The person responsible for paying any income chargeable under the head "Interest on securities" shall, at the time of payment, deduct income-tax on the amount of the interest payable at the maximum rate.

(4) All sums deducted in accordance with the provisions of this section shall, for the purpose of computing the income of an assessee, be deemed to be income received.

(5) Any deduction made in accordance with the provisions of this section shall be treated as a payment of income-tax on behalf of the person from whose income the deduction was made, or of the owner of the security, as the case may be, and credit shall be given to him therefor in the assessment, if any, made for the following year under this Act:

Provided that, if such person or such owner obtains, in accordance with the provisions of this Act, a refund of any portion of the tax so deducted, no credit shall be given for the amount of such refund.

(6) All sums deducted in accordance with the provisions of this section shall be paid within the prescribed time by the person making the deduction to the credit of the Government of India, or as the Board of Inland Revenue directs.

(7) If any such person does not deduct and pay the tax as required by this section, he shall, without prejudice to any other consequences which he may incur, be deemed to be personally in default in respect of the tax.

(8) The power to levy by deduction under this section shall be without prejudice to any other mode of recovery.

(9) Every person deducting income-tax in accordance with the provisions of sub-section (3) shall, at the time of payment of interest, furnish to the person to whom the interest is paid a certificate to the effect that income-tax has been deducted, and specifying the amount so deducted, the rate at which the tax has been deducted, and such other particulars as may be prescribed.

**19.** In the case of income chargeable under any other head than those mentioned in sub-section (1) of section 18, and in any case where income-tax has not been deducted in accordance with the provisions of that section, the tax shall be payable by the assessee direct.

**20.** The principal officer of every company shall, at the time of distribution of dividends, furnish to every person receiving a dividend a certificate to the effect that the company has paid or will pay income-tax on the profits which are being distributed, and specifying such other particulars as may be prescribed.

**21.** The prescribed person in the case of every Government office, and the principal officer or the prescribed person in the case of every local authority, company or other public body or association, and every private employer shall prepare, and, within thirty days from the 31st day of March in each year, deliver or cause to be delivered to the Income-tax Officer in the prescribed form, a return in writing showing—

(a) the name and, so far as it is known, the address, of every person who was receiving on the said 31st day of March, or has received during the year ending on that date, from the authority, company, body, association or private employer, as the case may be, any income chargeable under the head "Salaries" of such amount as may be prescribed;

(b) the amount of the income so received by each such person, and the time or times at which the same was paid;

(c) the amount deducted in respect of income-tax from the income of each such person.

**22.** (1) The principal officer of every company shall prepare, and, on or before the fifteenth day of June in each year, furnish to the Income-tax Officer a return, in the prescribed form and verified in the prescribed manner, of the total income of the company during the previous year:

Provided that the Income-tax Officer may, in his discretion, extend the date for the delivery of the return in the case of any company or class of companies.

(2) In the case of any person other than a company whose total income is, in the Income-tax Officer's opinion, of such an amount as to render such person liable to income-tax, the Income-tax Officer shall serve a notice upon him requiring him to furnish, within such period, not being less than thirty days as may be specified in the notice, a return in the prescribed form and verified in the prescribed manner setting forth (along with such other particulars as may be provided for in the notice) his total income during the previous year.

(3) If any person has not furnished a return within the time allowed by or under sub-section (1) or sub-section (2), or having furnished a return under either of those sub-sections, discovers any

omission or wrong statement therein, he may furnish a return or a revised return, as the case may be, at any time before the assessment is made, and any return so made shall be deemed to be a return made in due time under this section.

(4) The Income-tax Officer may serve on the principal officer of any company or on any person upon whom a notice has been served under sub-section (2) a notice requiring him, on a date to be therein specified, to produce, or cause to be produced, such accounts or documents as the Income-tax Officer may require:

Provided that the Income-tax Officer shall not require the production of any accounts relating to a period more than three years prior to the previous year.

**23.** (1) If the Income-tax Officer is satisfied that a return made under section 22 is correct and complete, he shall assess the total income of the assessee, and shall determine the sum payable by him on the basis of such return.

(2) If the Income-tax Officer has reason to believe that a return made under section 22 is incorrect or incomplete, he shall serve on the person who made the return a notice requiring him, on a date to be therein specified, either to attend at the Income-tax Officer's office or to produce, or to cause to be there produced, any evidence on which such person may rely in support of the return.

(3) On the day specified in the notice issued under sub-section (2), or as soon afterwards as may be, the Income-tax Officer, after hearing such evidence as such person may produce and such other evidence as the Income-tax Officer may require, on specified points, shall, by an order in writing, assess the total income of the assessee, and determine the sum payable by him on the basis of such assessment.

(4) If the principal officer of any company or any other person fails to make a return under sub-section (1) or sub-section (2) of section 22, as the case may be, or fails to comply with all the terms of a notice issued under sub-section (4) of the same section or, having made a return, fails to comply with all the terms of a notice issued under sub-section (2) of this section, the Income-tax Officer shall make the assessment to the best of his judgment.

**24.** (1) Where any assessee sustains a loss of profits or gains in any year under any of the heads mentioned in section 6, he shall be entitled to have the amount of the loss set off against his income, profits or gains under any other head in that year.

(2) Where the assessee is a registered firm, and the loss sustained cannot wholly be set off under sub-section (1), any member of such firm shall be entitled to have set off against any income, profits or gains of the year in which the loss was sustained in respect of which the tax is payable by him such amount of the loss not already set off as is proportionate to his share in the firm.

**25.** (1) Where any business, profession or vocation commenced after the 31st day of March, 1922, is discontinued in any year, an assessment may be made in that year on the basis of the income, profits

or gains of the period between the end of the previous year and the date of such discontinuance in addition to the assessment, if any, made on the basis of the income, profits or gains of the previous year.

(2) Any person discontinuing any such business, profession or vocation shall give to the Income-tax Officer notice of such discontinuance within fifteen days thereof, and, where any person fails to give the notice required by this sub-section, the Income-tax Officer may direct that a sum shall be recovered from him by way of penalty not exceeding the amount of tax subsequently assessed on him in respect of any income, profits or gains of the business, profession or vocation up to the date of its discontinuance.

VII of 1918.

(3) Where any business, profession or vocation which was in existence at the commencement of this Act, and on which tax was at any time charged under the provisions of the Indian Income-tax Act, 1918, is discontinued, no tax shall be payable in respect of the income, profits and gains of the period between the end of the previous year and the date of such discontinuance, and the assessee may further claim that the income profits and gains of the previous year shall be deemed to have been the income, profits and gains of the said period. Where any such claim is made, an assessment shall be made on the basis of the income, profits and gains of the said period, and if an amount of tax has already been paid in respect of the income, profits and gains of the previous year exceeding the amount payable on the basis of such assessment, a refund shall be given of the difference.

(4) Where an assessment is to be made under sub-section (1) or sub-section (3), the Income-tax Officer may serve on the person whose income, profits and gains are to be assessed, or, in the case of a firm, on any person who was a member of such firm at the time of its discontinuance, or, in the case of a company, on the principal officer thereof, a notice containing all or any of the requirements which may be included in a notice under sub-section (2) of section 22, and the provisions of this Act shall, so far as may be, apply accordingly as if the notice were a notice issued under that sub-section.

26. Where any change occurs in the constitution of a firm or where any person has succeeded to any business, profession or vocation, the assessment shall be made on the firm as constituted, or on the person engaged in the business, profession or vocation, as the case may be, at the time of the making of the assessment.

27. Where an assessee or, in the case of a company, the principal officer thereof, within one month from the service of a notice of demand issued as hereinafter provided, satisfies the Income-tax Officer that he was prevented by sufficient cause from making the return required by section 22, or that he did not receive the notice issued under sub-section (4) of section 22, or sub-section (2) of section 23, or that he had not a reasonable opportunity to comply, or was prevented by sufficient cause from complying, with the terms

of the last-mentioned notices, the Income-tax Officer shall cancel the assessment and proceed to make a fresh assessment in accordance with the provisions of section 23.

28. (1) If the Income-tax Officer, the Assistant Commissioner or the Commissioner in the course of any proceedings under this Act, is satisfied that an assessee has concealed the particulars of his income, or has deliberately furnished inaccurate particulars of such income, and has thereby returned it below its real amount, he may direct that the assessee shall, in addition to the income-tax payable by him, pay by way of penalty a sum not exceeding the amount of income-tax which would have been avoided if the income so returned by the assessee had been accepted as the correct income :

Provided that no such order shall be made, unless the assessee has been heard, or has been given a reasonable opportunity of being heard :

Provided, further, that no prosecution for an offence against this Act shall be instituted in respect of the same facts on which a penalty has been imposed under this section.

(2) An Assistant Commissioner or a Commissioner who has made an order under sub-section (1) shall forthwith send a copy of the same to the Income-tax Officer.

29. When the Income-tax Officer has determined a sum to be payable by an assessee under section 28, or when an order has been passed under sub-section (2) of section 25 or section 28 for the payment of a penalty, the Income-tax Officer shall serve on the assessee a notice of demand in the prescribed form specifying the sum so payable.

30. (1) Any assessee objecting to the amount assessed under this Act, or section 27, or denying his liability to be assessed under this Act, or objecting to a refusal of an Income-tax Officer to make a fresh assessment under section 27, or to any order against him under sub-section (2) of section 25 or section 28, made by an Income-tax Officer, may appeal to the Assistant Commissioner against the assessment or against such refusal or order :

Provided that no appeal shall lie in respect of an assessment made under sub-section (4) of section 23, or under that sub-section read with section 27.

(2) The appeal shall ordinarily be presented within thirty days of receipt of the notice of demand relating to the assessment or penalty objected to, or of the date of the refusal to make a fresh assessment under section 27, as the case may be ; but the Assistant Commissioner may admit an appeal after the expiration of the period if he is satisfied that the appellant had sufficient cause for not presenting it within that period.

(3) The appeal shall be in the prescribed form, and shall be verified in the prescribed manner.

31. (1) The Assistant Commissioner shall fix a day and place for the hearing of the appeal, and may from time to time adjourn the hearing.

(2) The Assistant Commissioner may, before disposing of any appeal, make such further inquiry as he thinks fit, or cause further inquiry to be made by the Income-tax Officer.

(3) In disposing of an appeal the Assistant Commissioner may, in the case of an order of assessment,—

(a) confirm, reduce, enhance or annul the assessment, or

(b) set aside the assessment and direct the Income-tax Officer to make a fresh assessment after making such further inquiry as the Income-tax Officer thinks fit or the Assistant Commissioner may direct, and the Income-tax Officer shall thereupon proceed to make such fresh assessment,

or, in the cases of an order under sub-section (2) of section 25 or section 28,

(c) confirm, cancel or vary such order :

Provided that the Assistant Commissioner shall not enhance an assessment unless the appellant has had a reasonable opportunity of showing cause against such enhancement.

**32.** (1) Any assessee objecting to an order passed by an Assistant Commissioner under section 28 or to an order enhancing his assessment under sub section (3) of section 31, may appeal to the Commissioner within thirty days of the making of such order.

Appeals against orders of Assistant Commissioner.

(2) The appeal shall be in the prescribed form, and shall be verified in the prescribed manner.

(3) In disposing of the appeal the Commissioner may, after giving the appellant an opportunity of being heard, pass such orders thereon as he thinks fit.

**33.** (1) The Commissioner may of his own motion call for the record of any proceeding under this Act which has been taken by any authority subordinate to him or by himself when exercising the powers of an Assistant Commissioner under sub-section (4) of section 5.

(2) On receipt of the record the Commissioner may make such inquiry or cause such inquiry to be made and, subject to the provisions of this Act may pass such orders thereon as he thinks fit :

Provided that he shall not pass any order prejudicial to an assessee without hearing him or giving him a reasonable opportunity of being heard.

**34.** If for any reason income, profits or gains chargeable to income-tax has escaped assessment, or has been assessed at too low a rate, the Income-tax Officer may, at any time within one year of the end of that year, serve on the person liable to pay tax on such income, profits or gains, or, in the case of a company, on the principal officer thereof, a notice containing all or any of the requirements which may be included in a notice under sub-section (2) of section 22, and may proceed to assess or re-assess such income, profits or gains, and the provisions of this Act shall, so far as may be, apply accordingly as if the notice were a notice issued under that sub-section :

Provided that the tax shall be charged at the rate at which it would have been charged had the income, profits or gains not escaped assessment or full assessment, as the case may be.

**35.** (1) The Income-tax Officer may, at any time within one year from the date of any demand made upon an assessee, on his own motion rectify any mistake apparent from the record of the assessment, and shall within the like period rectify any such mistake which has been brought to his notice by such assessee.

Rectification of mistake. Provided that no such rectification shall be made, having the effect of enhancing an assessment unless the Income-tax Officer has given notice to the assessee of his intention so to do and has allowed him a reasonable opportunity of being heard.

(2) Where any such rectification has the effect of reducing the assessment, the Income-tax Officer shall make any refund which may be due to such assessee.

(3) Where any such rectification has the effect of enhancing the assessment, the Income-tax Officer shall serve on the assessee a notice of demand in the prescribed form specifying the sum payable, and such notice of demand shall be deemed to be issued under section 29, and the provisions of this Act shall apply accordingly.

**36.** In the determination of the amount of tax to be calculated or of a refund payable under this Act, fractions of an anna less than six pies shall be disregarded, and fractions of an anna equal to or exceeding six pies shall be regarded as one anna.

**37.** The Income-tax Officer, Assistant Commissioner and Commissioner shall, for the purposes of this Chapter, have the same powers as are vested in a Court under the Code of Civil Procedure, 1908, when trying a suit in respect of the following matters, namely :—

- (a) enforcing the attendance of any person and examining him on oath or affirmation ;
- (b) compelling the production of documents ; and
- (c) issuing commissions for the examination of witnesses ;

and any proceeding before an Income-tax Officer, Assistant Commissioner or Commissioner under this Chapter shall be deemed to be a "judicial proceeding" within the meaning of sections 193 and 228 of the Indian Penal Code.

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**38.** The Income-tax Officer or Assistant Commissioner may, for the purposes of this Act,—

- (1) require any firm, or Hindu undivided family to furnish him with a return of the members of the firm, or of the manager or adult male members of the family, as the case may be, and of their addresses ;
- (2) require any person whom he has reason to believe to be a trustee, guardian, or agent, to furnish him with a return of the names of the persons for or of whom he is trustee, guardian, or agent, and of their addresses.

**39. The Income-tax Officer or Assistant Com-**

missioner, or any person authorised in writing in this behalf by the Income-tax Officer or Assistant Commissioner, may inspect and, if necessary, take copies, or cause copies to be taken, of any register of the members, debenture-holders or mortgagees of any company or of any entry in such register.

**CHAPTER V.****LIABILITY IN SPECIAL CASES.**

**40.** In the case of any guardian, trustee or agent of any person being a minor, lunatic or idiot or residing out of British India (all of which persons are hereinafter in this section included in the term beneficiary) being in receipt on behalf of such beneficiary of any income, profits or gains chargeable under this Act, the tax shall be levied upon and recoverable from such guardian, trustee or agent, as the case may be, in like manner and to the same amount as it would be leviable upon and recoverable from any such beneficiary if of full age, sound mind, or resident in British India, and in direct receipt of such income, profits or gains, and all the provisions of this Act shall apply accordingly.

**41.** In the case of income, profits or gains chargeable under this Act which are received by the Courts of Wards, etc. the Administrators-General, the Official Trustees or by any receiver or manager (including any person whatever his designation who in fact manages property on behalf of another) appointed by or under any order of a Court, the tax shall be levied upon and recoverable from such Court of Wards, Administrator-General, Official Trustee, receiver or manager in the like manner and to the same amount as it would be leviable upon and recoverable from any person on whose behalf such income, profits or gains are received, and all the provisions of this Act shall apply accordingly.

**42. (1)** In the case of any person residing out of British India, all profits or gains accruing or arising to such person, whether directly or indirectly, through or from any business connection or property in British India, shall be deemed to be income accruing or arising within British India, and shall be chargeable to income-tax in the name of the agent of any such person, and such agent shall be deemed to be, for all the purposes of this Act, the assessee in respect of such income-tax:

Provided that any arrears of tax may be recovered also in accordance with the provisions of this Act from any assets of the non-resident person which are, or may at any time come, within British India.

**(2)** Where a person not resident in British India, and not being a British subject or a firm or company constituted within His Majesty's dominions or a branch thereof, carries on business with a person resident in British India, and it appears to the Income-tax Officer or the Assistant Commissioner, as the case may be, that owing to the

close connection between the resident and the non-resident person and to the substantial control exercised by the non-resident over the resident, the course of business between those persons is so arranged, that the business done by the resident in pursuance of his connection with the non-resident produces to the resident either no profits or less than the ordinary profits which might be expected to arise in that business, the profits derived therefrom or which may reasonably be deemed to have been derived therefrom, shall be chargeable to income-tax in the name of the resident person who shall be deemed to be, for all the purposes of this Act, the assessee in respect of such income-tax.

**43.** Any person employed by or on behalf of a person residing out of British India, or having any business connection with such person, or through whom such person is in the receipt of any income, profits or gains upon whom the Income-tax Officer has caused a notice to be served of his intention of treating him as the agent of the non-resident person shall, for all the purposes of this Act, be deemed to be such agent:

Provided that no person shall be deemed to be the agent of a non-resident person, unless he has had an opportunity of being heard by the Income-tax Officer as to his liability.

**44.** Where any business, profession or vocation carried on by a firm has been discontinued, every person who was at the time of such discontinuance a member of such firm shall be jointly and severally liable for the amount of the tax payable in respect of the income, profits and gains of the firm.

**CHAPTER VI.****RECOVERY OF TAX AND PENALTIES.**

**45.** Any amount specified as payable in a notice of demand under section 29 or an order under section 31 or section 32 or section 33, shall be paid within the time, at the place and to the person mentioned in the notice or order, or if a time is not so mentioned, then on or before the first day of the second month following the date of the service of the notice or order, and any assessee failing so to pay shall be deemed to be in default, provided that, when an assessee has presented an appeal under section 30, the Income-tax Officer may in his discretion treat the assessee as not being in default as long as such appeal is undisposed of.

**46. (1)** When an assessee is in default in making a payment of income-tax, the Income tax Officer may in his discretion direct that, in addition to the amount of the arrears, a sum not exceeding that amount shall be recovered from the assessee by way of penalty.

**(2)** The Income-tax Officer may forward to the Collector a certificate under his signature specifying the amount of arrears due from an assessee, and the Collector, on receipt of such certificate, shall proceed to recover from such assessee the amount specified therein as if it were an arrear of land-revenue.



(3) In any area, with respect to which the Commissioner has directed that any arrears may be recovered by any process enforceable for the recovery of an arrear of any municipal tax or local rate imposed under any enactment for the time being in force in any part of the province, the Income-tax Officer may proceed to recover the amount due by such process.

(4) The Commissioner may direct by what authority any powers or duties incident under any such enactment as aforesaid to the enforcement of any process for the recovery of a municipal tax or local rate shall be exercised or performed when that process is employed under sub-section (3).

(5) If any assessee is in receipt of any income chargeable under the head "Salaries," the Income-tax Officer may require any person paying the same to deduct from any payment subsequent to the date of such requisition any arrears due from such assessee, and such person shall comply with any such requisition, and shall pay the sums so deducted to the credit of the Government of India, or as the Board of Inland Revenue directs.

(6) The Local Government may direct, with respect to any specified area, that income-tax shall be recovered therein, with, and as an addition to, any municipal tax or local rate by the same person and in the same manner as the municipal tax or local rate is recovered.

(7) Save in accordance with the provisions of sub-section (1) of section 42, no proceedings for the recovery of any sum payable under this Act shall be commenced after the expiration of one year from the last day of the year in which any demand is made under this Act.

**47.** Any sum imposed by way of penalty under the provisions of sub-section (2) of section 25, section 28 or sub-section (1) of section 46, shall be recoverable in the manner provided in this Chapter for the recovery of arrear of tax.

## CHAPTER VII.

### REFUNDS.

**48.** (1) If a shareholder in a company who has received any dividend therefrom satisfies the Income-tax Officer that the rate of income-tax applicable to the profits or gains of the company at the time of the declaration of such dividend is greater than the rate applicable to his total income of the year in which such dividend was declared, he shall, on production of the certificate received by him under the provisions of section 20, be entitled to a refund on the amount of such dividend (including the amount of the tax thereon) calculated at the difference between those rates.

(2) If a member of a registered firm satisfies the Income-tax Officer that the rate of income-tax applicable to his total income of the previous year was less than the rate at which income-tax has been levied on the profits or gains of the firm of that year, he shall be entitled to a refund on his share of those profits or gains calculated at the difference between those rates.

(3) If the owner of a security from the interest on which, or any person from whose salary,

income tax has been deducted in accordance with the provisions of section 18, satisfies the Income-tax Officer that the rate of income-tax applicable to his total income of the previous year was less than the rate at which income-tax has been charged in making such deduction in that year, he shall be entitled to a refund on the amount of interest or salary from which such deduction has been made calculated at the difference between those rates.

**49.** (1) If any person who has paid Indian Relief in respect of income-tax for any year on United Kingdom income-tax, any part of his income proves to the satisfaction of the Income-tax Officer that he has paid United Kingdom income-tax for that year in respect of the same part of his income, and that the rate at which he was entitled to, and has obtained, relief under the provisions of section 27 of the Finance Act, 1920, is less than the Indian rate of tax charged in respect of that part of his income, he shall be entitled to a refund of a sum calculated on that part of his income at a rate equal to the difference between the Indian rate of tax and the rate at which he was entitled to, and obtained, relief under that section:

10 & 11  
Geo. V, Ch. 18.

Provided that the rate at which the refund is to be given shall not exceed one-half of the Indian rate of tax.

(2) In sub-section (1)—

- (a) the expression "Indian income tax" means income-tax and super-tax charged in accordance with the provisions of this Act;
- (b) the expression "Indian rate of tax" means the amount of the Indian income-tax divided by the income on which it was charged;
- (c) the expression "United Kingdom income-tax" means income-tax and super-tax chargeable in accordance with the provisions of the Income-tax Acts.

**50.** No claim to any refund of income-tax under this Chapter shall be allowed, unless it is made within one year from the last day of the year in which the tax was recovered.

## CHAPTER VIII.

### OFFENCES AND PENALTIES.

**51.** If a person fails without reasonable cause

Failure to make payments or deliver returns or statements or allow inspection. or excuse—

- (a) to deduct and pay any tax as required by section 18 or under sub-section (5) of section 46;
- (b) to furnish a certificate required by sub-section (9) of section 18 or by section 20 to be furnished;
- (c) to furnish in due time any of the returns mentioned in section 21, section 22, or section 38;
- (d) to produce, or cause to be produced, on or before the date mentioned in any notice



under sub-section (4) of section 22, such accounts and documents as are referred to in the notice ;

- (c) to grant inspection or allow copies to be taken in accordance with the provisions of section 39,

he shall, on conviction before a Magistrate, be punishable with fine which may extend to ten rupees for every day during which the default continues.

**52.** If a person makes a statement in a False statement in verification mentioned in declaration. section 22, or sub-section (3) of section 30, or sub-section (2) of section 32 which is false, and which he either knows or believes to be false, or does not believe to be true, he shall be deemed to have committed the offence described in section 177 of the Indian Penal Code.

**53.** (1) A person shall not be proceeded Prosecution to be at against for an offence under instance of Assistant section 51 or section 52 Commissioner. except at the instance of the Assistant Commissioner.

(2) The Assistant Commissioner may stay any such proceeding or compound any such offence.

**54.** (1) All particulars contained in any statement made, return furnished Disclosure of information by a public or accounts or documents servant. produced under the provisions of this Act, or in any evidence given, or affidavit or deposition made, in the course of any proceedings under this Act other than proceedings under this Chapter, or in any record of any assessment proceeding, or any proceeding relating to the recovery of a demand, prepared for the purposes of this Act, shall be treated as confidential, and, notwithstanding anything contained in the Indian Evidence Act, 1872, no Court shall, save as provided in this Act, be entitled to require any public servant to produce before it any such return, accounts, documents or record or any part of any such record, or to give evidence before it in respect thereof.

(4) If a public servant discloses any particulars contained in any such statement, return, accounts, documents, evidence, affidavit, deposition or record, he shall be punishable with imprisonment which may extend to six months, and shall also be liable to fine :

Provided that nothing in this section shall apply to the disclosure—

- (a) of any such particulars for the purposes of a prosecution under section 193 of the Indian Penal Code in respect of any such statement, return, accounts, documents, evidence, affidavit or deposition, or for the purposes of a prosecution under this Act, or
- (b) of any such particulars to any person acting in the execution of this Act where it is necessary to disclose the same to him for the purposes of this Act, or
- (c) of any such particulars occasioned by the lawful employment under this Act of any process for the service of any notice or the recovery of any demand, or

- (d) of such facts, to an authorised officer of the United Kingdom, as may be necessary to enable relief to be given under section 27 of the Finance Act, 10 & 11 1920, or a refund to be given under Geo. V, section 49 of this Act : Ch. 18.

Provided, further, that no prosecution shall be instituted under this section except with the previous sanction of the Commissioner.

## CHAPTER IX.

### SUPER-TAX.

**55.** In addition to the income-tax charged for any year, there shall be charged, levied and paid for that year in respect of the total income of the previous year of any individual, unregistered firm, Hindu undivided family or company, an additional duty of income-tax (in this Act referred to as super-tax) at the rate or rates laid down for that year by Act of the Indian Legislature :

Provided that, where the profits and gains of an unregistered firm have been assessed to super-tax, super-tax shall not be payable by an individual having a share in the firm in respect of the amount of such profits and gains which is proportionate to his share.

**56.** Subject to the provisions of this Chapter, the total income of any individual, unregistered firm, Hindu undivided family or company shall, for the purposes of super-tax, be the total income as assessed for the purposes of income-tax, and where an assessment of total income has become final and conclusive for the purposes of income-tax for any year, the assessment shall also be final and conclusive for the purposes of super-tax for the same year.

**57.** (1) In the case of any assessee residing out of British India who is a member of a registered firm, and whose share of the profits from such firm is liable to super-tax, the remaining members of such firm who are resident in British India shall be jointly and severally liable to pay the super-tax due from the non-resident member in respect of such share.

(2) Where any assessee who is liable to pay super-tax on the amount of the dividends receivable by him from any company is, to the knowledge of the principal officer of the company, residing out of British India, the principal officer shall be liable to pay the super-tax due by such non-resident person in respect of the dividends received by him from the company, and shall have power to deduct the amount of such super-tax from the amount payable by the company to such assessee.

(3) Where any person pays any tax under the provisions of this section on account of an assessee who is residing out of British India, credit shall be given therefor in determining the amount of the tax to be payable by any agent of such non-resident assessee under the provisions of sections 42 and 43.

**58.** (1) All the provisions of this Act, except section 3, the proviso to sub-section (1) of section 7, the provisions to section 8, sub-

Application of Act to super-tax.

section (2) of section 14, and sections 15, 17, 18, 19, 20, 21 and 45 shall apply, so far as may be, to the charge, assessment, collection and recovery of super-tax.

(2) Save as provided in section 57, super-tax shall be payable by the assessee direct.

## CHAPTER X.

### MISCELLANEOUS.

**59.** (1) The Board of Inland Revenue may, subject to the control of the Governor General in Council, make rules for carrying out the purposes of this Act and for the ascertainment and determination of any class of income. Such rules may be made for the whole of British India or for such part thereof as may be specified.

(2) Without prejudice to the generality of the foregoing power, such rules may—

(a) prescribe the manner in which, and the procedure by which, the income, profits and gains shall be arrived at in the case of—

(i) incomes derived in part from agriculture and in part from business;

(ii) insurance companies;

(iii) persons residing out of British India;

(b) prescribe the procedure to be followed on applications for refunds;

(c) provide for such arrangements with His Majesty's Government as may be necessary to enable the appropriate relief to be granted under section 27 of the Finance Act, 1920, or under section 49 of this Act;

(d) prescribe the year which, for the purpose of relief under section 49, is to be taken as corresponding to the year of assessment for the purposes of section 27 of the Finance Act, 1920; and

(e) provide for any matter which by this Act is to be prescribed.

(3) The power to make rules conferred by this section shall, except on the first occasion of the exercise thereof, be subject to the condition of previous publication.

(4) Rules made under this section shall be published in the Gazette of India, and shall thereupon have effect as if enacted in this Act.

**60.** The Governor General in Council may, by notification in the Gazette of India, make an exemption, reduction in rate or other modification, in respect of income-tax in favour of any class of income, or in regard to the whole or any part of the income of any class of persons.

**61.** Any assessee, who is entitled or required to attend before any Income-tax authority in connection with any proceedings under this Act, may attend either in person or by any person authorised by him in writing in this behalf.

**62.** A receipt shall be given for any money paid or recovered under this Act.

**63.** (1) A notice or requisition under this Act may be served on the person therein named either

Service of notices. by post or, as if it were a summons issued by a Court, under the Code of Civil Procedure, 1908.

(2) Any such notice or requisition may, in the case of a firm or a Hindu undivided family, be addressed to any member of the firm or on the manager, or any adult male member of the family.

**64.** (1) Where an assessee carries on business at any place, he shall be assessed by the Income-tax

Place of assessment. Officer of the area in which that place is situated or, where the business is carried on in more places than one, by the Income-tax Officer of the area in which his principal place of business is situated.

(2) In all other cases an assessee shall be assessed by the Income-tax Officer of the area in which he resides.

(3) Where any question arises under this section as to the place of assessment, such question shall be determined by the Commissioner, or, where the question is between places in more provinces than one, by the Commissioners concerned, or, if they are not in agreement, by the Board of Inland Revenue:

Provided that, before any such question is determined, the assessee shall have had an opportunity of representing his views.

(4) Notwithstanding anything contained in this section, every Income-tax Officer shall have all the powers conferred by or under this Act on an Income-tax Officer in respect of any income, profits or gains accruing, or arising or received within the area for which he is appointed.

**65.** Every person deducting, retaining or paying any tax in pursuance of this Act in respect of income belonging to another person is hereby indemnified for the deduction, retention or payment thereof.

**66.** (1) If, in the course of any assessment under this Act or any proceeding of the Commissioner to High Court in connection therewith other than a proceeding under Chapter VIII, a question of law arises, the Commissioner may, either on his own motion or on reference from any Income-tax authority subordinate to him, draw up a statement of the case and refer it with his own opinion thereon to the High Court.

(2) Within one month of the passing of an order under section 31 or section 32, the assessee in respect of whom the order was passed may, by application accompanied by a fee of one hundred rupees or such lesser sum as may be prescribed, require the Commissioner to refer to the High Court any question of law arising out of such order, and the Commissioner shall, within one month of the receipt of such application, draw up a statement of the case and refer it with his own opinion thereon to the High Court:

Provided that, if, in exercise of his power of review under section 33, the Commissioner decides the question, the assessee may withdraw his application, and if he does so, the fee paid shall be refunded.

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(3) If, on any application being made under sub-section (2), the Commissioner refuses to state the case on the ground that no question of law arises, the assessee may apply to the High Court, and the High Court, if it is not satisfied of the correctness of the Commissioner's decision, may require the Commissioner to state the case and to refer it, and, on receipt of any such requisition, the Commissioner shall state and refer the case accordingly.

(4) If the High Court is not satisfied that the statements in a case referred under this section are sufficient to enable it to determine the question raised thereby, the Court may refer the case back to the Commissioner by whom it was stated to make such additions thereto or alterations therein as the Court may direct in that behalf.

(5) The High Court upon the hearing of any such case shall decide the questions of law raised thereby, and shall deliver its judgment thereon containing the grounds on which such decision is founded, and shall send to the Commissioner by whom the case was stated a copy of such judgment under the seal of the Court and the signature of the Registrar, and the Commissioner shall dispose of the case accordingly, or, if the case arose on a reference from any Income-tax authority subordinate to him, shall forward a copy of such judgment to such authority who shall dispose of the case conformably to such judgment.

(6) Where a reference is made to the High Court on the application of an assessee, the costs shall be in the discretion of the Court.

(7) Notwithstanding that a reference has been made under this section to the High Court, income-tax shall be payable in accordance with the assessment made in the case :

Provided that, if the amount of an assessment is reduced as a result of such reference, the amount overpaid shall be refunded with such interest as the Commissioner may allow.

**67.** No suit shall be brought in any Civil Court to set aside or modify any assessment made under this Act, and no prosecution, suit or other proceeding shall lie against any Government officer for anything in good faith done or intended to be done under this Act.

**68.** The enactments mentioned in the Schedule are hereby repealed to the extent specified in the fourth column thereof :

Provided that such repeal shall not affect the liability of any person to pay any sum due from him or any existing right of refund under any of the said enactments :

Provided, further, that the provisions of section 19 of the Indian Income-tax Act, 1918, shall apply, so far as may be, to all assessments made under that Act in the year ending on the 31st day of March, 1922, and where an adjustment shall be made under the provisions of section 19 of the said Act, the provisions of this Act regarding the procedure for the assessment and recovery of income-tax shall apply as if such adjustment were an assessment made under this Act.

### THE SCHEDULE.

#### ENACTMENTS REPEALED.

(See section 68.)

1	2	3	4
Year.	No.	Short title.	Extent of repeal.
1918.	VII	The Indian Income-tax Act, 1918.	The whole.
1919.	IV	The Indian Income-tax (Amendment) Act, 1919.	The whole.
"	XVIII	The Repealing and Amending Act, 1919.	So much of the First Schedule as relates to the Indian Income-tax Act, 1918.
1920.	XVII	The Indian Income-tax (Amendment) Act, 1920.	The whole.
"	XIX	The Super-tax Act, 1920.	The whole.
"	XXXI	The Repealing and Amending Act, 1920.	So much of the First Schedule as relates to the Super-tax Act, 1920.
"	XLIV	The Indian Income-tax (Amendment No. 2) Act, 1920.	The whole.

H. MONCRIEFF SMITH,  
Secretary to the Government of India.

